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U.S. Mines Bureau

Bulletin 206

DEPARTMENT OF THE INTERIOR

ALBERT B. FALL, SECRETARY

BUREAU OF MINES

H. FOSTER BAIN, DIRECTOR

PETROLEUM LAWS

OF

ALL AMERICA

BY

J. W. THOMPSON

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WASHINGTON
GOVERNMENT PRINTING OFFICE
1921

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OF
AMERICA

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First edition, March, 1921.

PREFACE.

The wide demand for copies of the petroleum laws of Mexico and of the Central and South American Republics has been deemed a sufficient reason for the Bureau of Mines making a collection of laws. In addition, persons interested in petroleum production, and persons desiring information on the conditions under which operators might engage in mining oil in these countries suggested that this bureau collect and give to the public, as far as practicable, the laws regulating leases and concessions, and the explorations for and exploiting of petroleum in these Republics.

It was not practical, in order to meet the demand for copies of these laws, to send representatives to all these various Republics for the purpose of obtaining the latest legislative expressions relating to petroleum operations. The numerous inquiries and the increasing demand for this information had lead the State Department to undertake, through its Consular Service, to have these and other laws of interest to the American people furnished to that department, and this material, generously placed at the disposal of the Bureau of Mines, has been the main source for this report.

This collection of these laws is as current as it could be made, considering the agencies engaged, the distances involved, and the time required for the transmission of mail. Complying with the popular demand for information and being aware of the necessity for an increase in the production of oil to meet the prospective increase in consumption, the Bureau of Mines gives to the public the results of its efforts in behalf of a wider knowledge of the petroleum laws of all America.

Included in the collection are the comparatively new leasing act enacted by Congress and the regulations governing the operations under it. It was deemed advisable to publish also the petroleum laws of the various States as well as those of Canada.

H. FOSTER BAIN,
Director.

AUTHOR'S PREFACE.

This bulletin includes the petroleum laws of (1) United States; (2) the several oil-producing States; (3) Canada; (4) Mexico; (5) the Republics of Central and South America.

The author has sought to include the last congressional and legislative enactments on petroleum operations, and the laws given are the latest obtainable. No discoveries of oil have been made in some of the Central and South American Republics and those countries, therefore, have no laws on the subject.

For some countries, in the absence of a law governing petroleum operations, the general mining code is given, as it may be possible for petroleum concessions to be made and oil deposits developed under a mining code.

The petroleum laws of the Spanish American Republics are usually supplemented by decrees of the Presidents, which serve the purpose of regulations. Such decrees may not change or annul absolutely a congressional enactment, but they may in effect modify the application and enforcement of the laws. These decrees may be issued at any time, and it is highly important for concessionaires to keep advised as to the latest decree. The same statement applies to the orders in council issued by the Canadian Government. The commissions of many of our own States have wide authority in regulating the operations of State laws, and their regulations are subject to change and amendment.

Compliance with any such decrees, orders in council, and rules of the State commissions is as essential as obedience to the laws themselves.

Much effort has been given to finding and presenting the latest and most reliable enactments. Every facility has been used in obtaining the most accurate translations of the Spanish laws. Different translations of some laws have been compared and the phraseology that seemed best has been adopted. A literal translation of every enactment has been sought, but some Spanish legislative expressions do not lend themselves to literal translation, and the intent of these has been gathered by persons familiar with Spanish legal terms and phraseology.

No general or full word index is given, as it is believed that the complete table of contents, repeated at the head of each State or country, and the prominent title lines showing each subject treated will lead the reader directly to any desired point or provision.

Dr. Millspaugh of the State Department, in charge of the consular reports relating to the mining laws in Mexico, Central and South America, by his kindness contributed largely to the obtaining of the latest laws from these countries.

Expressions of appreciation are due the Hon. H. N. Branch, attorney, who is a naturalized citizen of Mexico and has specialized in the mining laws of that Republic, for his assistance with the Mexican laws and the translation of laws of other Republics.

The author is under obligation to the Hon. P. Luna y Parra, attorney, who has studied the laws of all the Spanish American Republics, for carefully criticising the entire collection, and to Mr. James R. Jones, formerly connected with the Bureau of Mines, for aid in collecting and arranging the laws of some of the Spanish American Republics.

J. W. THOMPSON,
Law Examiner.

COMPILATION OF PETROLEUM LAWS.

STATES AND COUNTRIES INCLUDED.

	Page.
UNITED STATES-----	1
ALABAMA-----	40
ARIZONA-----	42
ARKANSAS-----	46
CALIFORNIA-----	51
COLORADO-----	72
DELAWARE-----	77
IDAHO-----	80
ILLINOIS-----	88
INDIANA-----	90
KANSAS-----	110
KENTUCKY-----	134
LOUISIANA-----	143
MICHIGAN-----	163
NEBRASKA-----	167
NEVADA-----	170
NEW JERSEY-----	173
NEW MEXICO-----	178
NEW YORK-----	183
NORTH DAKOTA-----	191
OHIO-----	193
OKLAHOMA-----	211
OREGON-----	265
PENNSYLVANIA-----	269
TENNESSEE-----	294
TEXAS-----	300
UTAH-----	325
WASHINGTON-----	328
WEST VIRGINIA-----	333
WYOMING-----	356
CANADA-----	364
BRITISH COLUMBIA-----	381
NEW BRUNSWICK-----	396
ONTARIO-----	417
QUEBEC-----	435
MEXICO-----	439
CENTRAL AMERICA-----	490
BRITISH HONDURAS-----	491
COSTA RICA-----	492
GUATEMALA-----	498
HONDURAS-----	500
NICARAGUA-----	506
PANAMA-----	507
SALVADOR-----	517

	Page.
SOUTH AMERICA-----	519
ARGENTINA-----	520
BOLIVIA-----	521
BRAZIL-----	523
BRITISH GUIANA-----	535
CHILE-----	545
COLOMBIA-----	562
DUTCH GUIANA-----	575
ECUADOR-----	575
FRENCH GUIANA-----	577
PARAGUAY-----	578
PERU-----	579
URAGUAY-----	600
VENEZUELA-----	605

UNITED STATES.

CONTENTS.

	Page.
Oil leasing act.....	1
General provisions.....	1
Oil and gas.....	2
Oil shale.....	6
Alaska oil proviso.....	7
Application to oil, oil shale, and gas leases.....	7
Regulations—Permits and leases.....	12
Contents.....	12
Oil and gas regulations.....	15
Oil and gas permits.....	15
Oil and gas leases.....	20
Relief measures.....	24
Rights of ways for pipe lines.....	31
Fees and commissions.....	31
Repealing and saving clause.....	32
Oil and gas regulations—Amendments.....	32
Operating regulations.....	35
Definitions.....	35
Powers and duties of supervisor.....	36
Duties of lessees.....	36
Gauging oil—Regulations.....	37
Natural gas—Measurement.....	37
Casing head gas—Computing value.....	38
Enforcement of orders.....	38
Appeal to Secretary.....	38

OIL LEASING ACT.

41 STAT. AT LARGE, P. 437.

FEBRUARY 25, 1920.

An Act To promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain.

GENERAL PROVISIONS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Act known as the Appalachian Forest Act, approved March 1, 1911 (Thirty-sixth Statutes, page 961), and those in national parks, and in lands withdrawn or reserved for military or naval uses or purposes, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this Act to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, and in the case of coal, oil, oil shale, or gas, to municipalities: Provided, That the United States reserves the right to

extract helium from all gas produced from lands permitted, leased, or otherwise granted under the provisions of this Act, under such rules and regulations as shall be prescribed by the Secretary of the Interior: Provided further, That in the extraction of helium from gas produced from such lands, it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof: And provided further, That citizens of another country, the laws, customs, or regulations of which, deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act.

* * * * *

OIL AND GAS.

SEC. 13. That the Secretary of the Interior is hereby authorized, under such necessary and proper rules and regulations as he may prescribe, to grant to any applicant qualified under this Act a prospecting permit, which shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas upon not to exceed two thousand five hundred and sixty acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall, within one year from and after the date of permit, drill one or more wells for oil or gas to a depth of not less than five hundred feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered. The Secretary of the Interior may, if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such lands in a reasonably compact form and according to the legal subdivisions of the public land surveys if the land be surveyed; and in an approximately square or rectangular tract if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its width, and if he shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after date of posting said notice, the name of the applicant, the date of the notice, and such a general description of the land to be covered by such permit by reference to courses and distances from such monument and such other natural objects and permanent monuments as will reasonably identify the land, stating the amount thereof in acres, he shall during the period of thirty days following such marking and posting, be entitled to a preference right over others to a permit for the land so identified. The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby: Provided, That in the Territory of Alaska prospecting permits not more than five in number may be granted to any qualified applicant for periods not exceeding four years, actual drilling operations shall begin

within two years from date of permit, and oil and gas wells shall be drilled to a depth of not less than five hundred feet, unless valuable deposits of oil or gas shall be sooner discovered, within three years from date of the permit and to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered, within four years from date of permit: Provided further, That in said Territory the applicant shall have a preference right over others to a permit for land identified by temporary monuments and notice posted on or near the same for six months following such marking and posting, and upon receiving a permit he shall mark the corners of the tract described in the permit upon the ground with substantial monuments within one year after receiving such permit.

SEC. 14. That upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: Provided, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, with the right of renewal as prescribed in section 17 hereof. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than $12\frac{1}{2}$ per centum in amount or value of the production, and under such other conditions as are fixed for oil or gas leases in this Act, the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: Provided, That the Secretary shall have the right to reject any or all bids.

SEC. 15. That until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

SEC. 16. That all permits and leases of lands containing oil or gas, made or issued under the provisions of this Act, shall be subject to the condition that no wells shall be drilled within two hundred feet of any of the outer boundaries of the lands so permitted or leased, unless the adjoining lands have been patented or the title thereto otherwise vested in private owners, and to the further condition that the permittee or lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the permit or lease, to be enforced through appropriate proceedings in courts of competent jurisdiction.

SEC. 17. That all unappropriated deposits of oil or gas situated within the known geologic structure of a producing oil or gas field and the unentered lands containing the same, not subject to preferential lease, may be leased by the Secretary of the Interior to the highest responsible bidder by competitive bidding under general regulations to qualified applicants in areas not exceeding six hundred and forty acres and in tracts which shall not exceed in length two and one-half times their width, such leases to be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall not be less than 12½ per centum in amount or value of the production, and the payment in advance of a rental of not less than \$1 per acre per annum thereafter during the continuance of the lease, the rental paid for any one year to be credited against the royalties as they accrue for that year. Leases shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods. Whenever the average daily production of any oil well shall not exceed ten barrels per day, the Secretary of the Interior is authorized to reduce the royalty on future production when in his judgment the wells can not be successfully operated upon the royalty fixed in the lease. The provisions of this paragraph shall apply to all oil and gas leases made under this Act.

SEC. 18. That upon relinquishment to the United States, filed in the General Land Office within six months after the approval of this Act, of all right, title, and interest claimed and possessed prior to July 3, 1910, and continuously since by the claimant or his predecessor in interest under the preexisting placer mining law to any oil or gas bearing land upon which there has been drilled one or more oil or gas wells to discovery embraced in the Executive order of withdrawal issued September 27, 1909, and not within any naval petroleum reserve, and upon payment as royalty to the United States of an amount equal to the value at the time of production of one-eighth of all the oil or gas already produced except oil or gas used for production purposes on the claim, or unavoidably lost, from such land, the claimant, or his successor, if in possession of such land, undisputed by any other claimant prior to July 1, 1919, shall be entitled to a lease thereon from the United States for a period of twenty years, at a royalty of not less than 12½ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: Provided, That not more than one-half of the area, but in no case to exceed three thousand two hundred acres, within the geologic oil or gas structure of a producing oil or gas field shall be leased to any one claimant under the provision of this section when the area of such geologic oil structure exceeds six hundred and forty acres. Any claimant or his successor, subject to this limitation, shall, however, have the right to select and receive the lease as in this section provided for that portion of his claim or claims equal to, but not in excess of, said one-half of the area of such geologic oil structure, but not more than three thousand two hundred acres.

All such leases shall be made and the amount of royalty to be paid for oil and gas produced, except oil or gas used for production purposes on the claim, or unavoidably lost, after the execution of such lease shall be fixed by the Secretary of the Interior under appropriate rules and regulations: Provided, however, That as to all like claims situate within any naval petroleum reserve the producing wells thereon only shall be leased, together with an area of land sufficient for the operation thereof, upon the terms and payment of royalties

for past and future production as herein provided for in the leasing of claims. No wells shall be drilled in the land subject to this provision within six hundred and sixty feet of any such leased well without the consent of the lessee: Provided, however, That the President may, in his discretion, lease the remainder or any part of any such claim upon which such wells have been drilled, and in the event of such leasing said claimant or his successor shall have a preference right to such lease: And provided further, That he may permit the drilling of additional wells by the claimant or his successor within the limited area of six hundred and sixty feet theretofore provided for upon such terms and conditions as he may prescribe.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

Upon the delivery and acceptance of the lease, as in this section provided, all suits brought by the Government affecting such lands may be settled and adjusted in accordance herewith and all moneys impounded in such suits or under the Act entitled "An Act to amend an Act entitled 'An Act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest,' approved March 2, 1911," approved August 25, 1914 (Thirty-eighth Statutes at Large, page 708), shall be paid over to the parties entitled thereto. In case of conflicting claimants for leases under this section, the Secretary of the Interior is authorized to grant leases to one or more of them as shall be deemed just. All leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear, subject, however, to the same limitation as to area and acreage as is provided for claimant in this section: Provided, That no claimant acquiring any interest in such lands since September 1, 1919, from a claimant on or since said date claiming or holding more than the maximum allowed claimant under this section shall secure a lease thereon or any interest therein, but the inhibition of this proviso shall not apply to an exchange of any interest in such lands made prior to the 1st day of January, 1920, which did not increase or reduce the area or acreage held or claimed in excess of said maximum by either party to the exchange: Provided further, That no lease or leases under this section shall be granted, nor shall any interest therein, inure to any person, association, or corporation for a greater aggregate area or acreage than the maximum in this section provided for.

SEC. 18a. That whenever the validity of any gas or petroleum placer claim under preexisting law to land embraced in the Executive order of withdrawal issued September 27, 1909, has been or may hereafter be drawn in question on behalf of the United States in any departmental or judicial proceedings, the President is hereby authorized at any time within twelve months after the approval of this Act to direct the compromise and settlement of any such controversy upon such terms and conditions as may be agreed upon, to be carried out by an exchange or division of land or division of the proceeds of operation.

SEC. 19. That any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to the passage of this Act, and who has performed work or expended on or for the benefit of such locations an amount equal in the aggregate of \$250

for each location if application therefor shall be made within six months from the passage of this Act shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this Act, or where any such person has heretofore made such discovery, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 18 hereof: Provided, That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than $12\frac{1}{2}$ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: Provided, however, That the provisions of this section shall not apply to lands reserved for the use of the Navy: Provided, however, That no claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear.

SEC. 20. In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentees, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than $12\frac{1}{2}$ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 14 hereof.

OIL SHALE.

SEC. 21. That the Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this Act any deposits of oil shale belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this Act, as he may prescribe; that no lease hereunder shall exceed five thousand one hundred and twenty acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior. Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development. For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of 50 cents per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to

readjustment at the end of each twenty-year period by the Secretary of the Interior: Provided, That for the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease: Provided, That any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation: Provided, however, That no claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section: Provided further, That not more than one lease shall be granted under this section to any one person, association, or corporation.

ALASKA OIL PROVISIO.

SEC. 22. That any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to the passage of this Act expended not less than \$250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from the date of this Act, or within six months after final denial or withdrawal of application for patent, to a prospecting permit or permits, lease or leases, under this Act covering such lands, not exceeding five permits or leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: Provided, That leases in Alaska under this Act whether as a result of prospecting permits or otherwise shall be upon such rental and royalties as shall be fixed by the Secretary of the Interior and specified in the lease, and be subject to readjustment at the end of each twenty-year period of the lease: Provided further, That for the purpose of encouraging the production of petroleum products in Alaska the Secretary may, in his discretion, waive the payment of any rental or royalty not exceeding the first five years of any lease.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

* * * * *

APPLICATION TO OIL, OIL SHALE, AND GAS LEASES.

SEC. 26. That the Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

SEC. 27. That no person, association, or corporation, except as herein provided, shall take or hold more than one coal, phosphate, or sodium lease during the life of such lease in any one State; no person, association, or corporation shall take or hold, at one time, more than three oil or gas leases granted hereunder in any one State, and not more than one lease within the geologic structure

of the same producing oil or gas field; no corporation shall hold any interest as a stockholder of another corporation in more than such number of leases; and no person or corporation shall take or hold any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, which, together with the area embraced in any direct holding of a lease under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, for any kind of mineral leased hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee under this Act. Any interests held in violation of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this Act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition: Provided, That nothing herein contained shall be construed to limit sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this Act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this Act, or the transportation of coal: Provided further, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same: And provided further, That if any of the lands or deposits leased under the provisions of this Act shall be subleased, trusted, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever so that they form part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control, in excess of the amounts of land provided in this Act, the lease thereof shall be forfeited by appropriate court proceedings.

SEC. 28. That rights of way through the public lands, including the forest reserves, of the United States are hereby granted for pipe-line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of this Act, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers: Provided, That the Government shall in express terms reserve and shall provide in every lease of all lands hereunder that the lessee, assignee or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without dis-

crimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of this Act: Provided further, That no right of way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding.

SEC. 29. That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes: Provided, That said Secretary, in his discretion, in making any lease under this Act, may reserve to the United States the right to lease, sell, or otherwise dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: Provided further, That if such reservation is made it shall be so determined before the offering of such lease: And provided further, That the said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

SEC. 30. That no lease issued under the authority of this Act shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners, and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare: Provided, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

SEC. 31. That any lease issued under the provisions of this Act may be forfeited and canceled by an appropriate proceeding in the United States district

court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

SEC. 32. That the Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this Act, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this Act: Provided, That nothing in this Act shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

SEC. 33. That all statements, representations, or reports required by the Secretary of the Interior under this Act shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

SEC. 34. That the provisions of this Act shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits.

SEC. 35. That 10 per centum of all money received from sales, bonuses, royalties, and rentals under the provisions of this Act, excepting those from Alaska, shall be paid into the Treasury of the United States and credited to miscellaneous receipts; for past production 70 per centum, and for future production $52\frac{1}{2}$ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress, known as the Reclamation Act, approved June 17, 1902, and for past production 20 per centum, and for future production $37\frac{1}{2}$ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct: Provided, That all moneys which may accrue to the United States under the provisions of this Act from lands within the naval petroleum reserves shall be deposited in the Treasury as "Miscellaneous receipts."

SEC. 36. That all royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this Act, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to

complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: Provided, however, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: And provided further, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

SEC. 37. That the deposits of coal, phosphate, sodium, oil, oil shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits described in the joint resolution entitled "Joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming," approved August 1, 1912 (Thirty-seventh Statutes at Large, page 1346), shall be subject to disposition only in the form and manner provided in this Act, except as to valid claims existent at date of passage of this Act and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery.

SEC. 38. That, until otherwise provided, the Secretary of the Interior shall be authorized to prescribe fees and commissions to be paid registers and receivers of United States land offices on account of business transacted under the provisions of this Act.

Approved, February 25, 1920.

REGULATIONS—PERMITS AND LEASES.

RIGHTS OF WAY—PIPE LINES.

APPROVED MARCH 11, 1920.

CONTENTS.

(As published.)

	Page.
I. Oil and gas permits.....	15
1. Qualifications of applicants.....	15
(a) Individual.....	15
(b) Association.....	15
(c) Corporation.....	15
(d) Municipality.....	15
2. Lands to which applicable.....	15
Lands not subject to permit.....	15
3. Permits and leases for other minerals.....	15
4. Form and contents of application for permit.....	16
(a) Name and address.....	16
(b) Proof of citizenship.....	16
Individual.....	16
Corporation.....	16
Municipality.....	16
(c) Statement of other interests.....	16
(d) Description of land.....	16
(e) Reason for believing land mineral.....	16
(f) Method of prospecting.....	16
(g) Experience.....	16
(h) Preference right.....	16
(i) Bond.....	16
5. How preference right acquired.....	16
(a) Monument.....	16
(b) Posting notice.....	17
(c) Conflicts.....	17
6. Form and requirements of permit.....	17
7. Extension of permit.....	18
8. Reward for discovery.....	18
(a) Lease of one-fourth of land.....	18
(b) Preference right to lease remainder.....	18
9. Penalty for default.....	18
10. Permits in Alaska.....	18
(a) Five may be held.....	18
(b) Preference right.....	19
(c) Time for exploratory work.....	19
11. Permits for reserved deposits.....	19
12. Preference right of owner of surface.....	19
Conditions necessary to preference right.....	19

I. Oil and gas permits—Continued.	
12. Preference right of owner of surface—Continued.	Page.
(a) Notice to owner of surface.....	19
(b) Preference-right applicant to show right.....	19
(c) Life of preference right.....	19
(d) Holdings may be combined.....	19
(e) Rights acquired by discovery.....	19
II. Oil and gas leases.....	20
13. Designation and offer of lands for lease.....	20
Leasing areas.....	20
How offered.....	20
14. Notice of lease offer.....	20
Publication.....	20
Warning.....	20
15. Auctioning of lease privilege.....	20
Bonus.....	20
Deposit by successful bidder.....	20
(a) Proof of citizenship.....	20
(b) Interests in other permits or leases.....	20
16. Award of lease.....	20
Payment of bonus and rental.....	21
Bond.....	21
Forfeiture of deposit.....	21
17. Form of lease.....	21
III. Relief measures.....	24
18. Conditions for relief under section 18.....	24
(a) Withdrawal.....	24
(b) Priority and possession of claim.....	24
(c) When and how claim was acquired.....	24
(d) Discovery.....	24
(e) Settlement of conflicting claims.....	24
(f) Fraud.....	24
(g) Citizenship.....	24
(h) Relinquishment of former claim.....	24
(i) Payment of royalty for past production.....	24
19. Relief under section 18.....	25
(a) Outside naval reserves.....	25
(b) In naval reserves.....	25
(c) Royalties.....	25
20. Conditions for relief under section 19.....	25
A. For permit.....	25
(a) In naval reserves.....	25
(b) Occupation and priority of claim.....	25
(c) Compliance with former laws.....	26
(d) Work done.....	26
(e) Fraud.....	26
(f) Citizenship.....	26
(g) Relinquishment of former claim.....	26
B. For lease.....	26
Conditions common to lease and permit.....	26
(a) Discovery.....	26
(b) Rights under section 18.....	26
(c) Payment of royalty on past production.....	26

III. Relief measures—Continued.	Page.
21. Relief under section 19	26
(a) Permits	26
(b) Leases	26
22. Alaska claims—conditions for relief	26
A. For permit	26
(a) Priority of claim	26
(b) Compliance with former laws	27
(c) Work done	27
(d) Relinquishment of former claim	27
Conditions common to lease and permit	27
B. For lease	27
Conditions common to relief under section 19	27
(a) Discovery	27
(b) Payment of royalty for past production	27
23. Alaska claims—relief	27
(a) Permits	27
(b) Leases	27
(c) Limitation as to number and acreage	27
24. Beneficiaries	27
25. Form and contents of application	27
(a) Date	28
(b) Applicant's name and address	28
(c) Description of land—survey	28
(d) Origin of claim	28
(e) Conflicting claims	28
(f) Discovery	28
(g) Wells, improvements, and production	28
(h) Past production	29
Grade and quantity	29
Sold	29
Stored	29
(i) Investment and cost of operation	29
Development and equipment	29
Present values	29
Operation	29
(j) Interest in other leases and permits	29
(k) Limitation of area	29
26. Payment of royalty for past production	29
27. Publication of notice	30
Form of notice for publication	30, 34
28. Adverse and conflicting claims—procedure	31
(a) Showing required	31
(b) Action to be taken	31
29. Compromises	31
IV. Rights of way for pipe lines	31
V. Fees and commissions	31
(a) Fees	31
(b) Commissions	32
Limitation on	32
VI. Repealing and saving clauses	32
(a) Locations after withdrawal	32
(b) Locations antedating withdrawal	32
(c) Locations—lands not withdrawn	32

OIL AND GAS REGULATIONS.

See Amendments, p. 32.

Under the authority of the act of Congress approved February 25, 1920, entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," the following rules and regulations are prescribed for the administration of the provisions of said act relative to oil and gas:

I.—OIL AND GAS PERMIT.

Section 13 of the act authorizes the Secretary of the Interior to grant a qualified applicant the exclusive right to prospect for oil or gas for the period of two years, unless extended, and under authority thereof the following rules and regulations will govern the issuance of such permits:

1. **QUALIFICATIONS OF APPLICANTS.**—Pursuant to section 1 of the act, permits may be issued to (a) a citizen of the United States; (b) an association of such citizens; (c) a corporation organized under the laws of the United States or of any State or Territory thereof, provided that no stockholders are citizens or nonreciprocating countries, as provided in section 1 of the act; or (d) a municipality. (Amended. See p. 32.)

2. **LANDS TO WHICH APPLICABLE.**—The permit thus issued may include not more than 2,560 acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field, the lands applied for to be taken in a reasonably compact form, by legal subdivisions if surveyed, and in an approximately square or rectangular tract if unsurveyed, the length of which must not exceed two and one-half times its width.

Such leases may not include land or deposits in (a) national parks; (b) forests created under the act of March 1, 1911 (36 Stat., 961), known as the Appalachian Forest Reserve act; (c) lands in military or naval reservations; nor (d) Indian reservations, or (e) ceded or restored Indian lands, the proceeds from the disposition of which are credited to the Indians.

All permits or leases for the exploration for or development of oil or gas deposits under this act within the limits of national forests or other reservations or withdrawals to which this act is applicable shall be subject to and contain such conditions, stipulations and reservations as the Secretary of the Interior shall deem necessary for the protection of such forests, reservations or withdrawals, and the uses and purposes for which created.

The boundaries of the geological structures of producing oil or gas fields will be determined by the United States Geological Survey, under the supervision of the Secretary of the Interior, and maps or diagrams showing same will be placed on file in local United States land offices.

It should be understood that under the act, the granting of a prospecting permit for oil and gas is discretionary with the Secretary of the Interior, and any application may be granted or denied, either in part or in its entirety, as the facts may be deemed to warrant.

3. **PERMITS OR LEASES FOR OTHER MINERALS.**—The granting of a permit or lease for the development or production of oil or gas will not preclude other permits or leases of the same land for the mining of other minerals, under this act, with suitable stipulations for such joint operation, to the end that the full development of the mineral resources may be secured, nor will it preclude the allowance of applicable entries, locations, or selections of the lands included therein with a reservation of the mineral deposits to the United States.

4. FORM AND CONTENTS OF APPLICATION.—Applications for permits should be filed in the proper district land office, addressed to the Commissioner of the General Land Office, be suspended for 30 days to enable preference-right claims to be presented before action, and after due notation then forwarded for his consideration, with a full report as to status and conflicts. No specific form of application is required, and no blanks will be furnished, but it should cover, in substance, the following points, and be under oath:

(a) Applicant's name and address.

(b) Proof of citizenship of applicant, by affidavit of such fact, if native born; or if naturalized, by a certified copy of the certificate of naturalization on the form provided for use in public-land matters, unless such a copy is already on file; if a corporation, by certified copy of the articles of incorporation, and evidence that none of its stockholders are citizens of another country the laws, customs, and regulations of which deny similar or like privileges to citizens or corporations of this country; if a municipality a showing of (1) the law or charter and procedure taken by which it has become a legal body corporate; (2) that the taking of a permit or lease is authorized under such law or charter; and (3) that the action proposed has been duly authorized by the governing body of such municipality. (Amended. See p. 33.)

(c) A statement that the applicant is not the holder of, and has no direct or indirect interest in, any other subsisting permit, and that he has no other application pending for a permit. (Substituted. See p. 33.)

(d) Description of the land for which the permit is desired, by legal subdivisions if surveyed, and by metes and bounds if unsurveyed, in which latter case, if deemed necessary, a survey sufficient more fully to identify the land may be required before the permit is granted. In order to properly identify unsurveyed lands, great care should be taken, and if possible the metes and bounds description should be connected by course and distance with some corner of the public land surveys.

(e) Reasons why the land is believed to offer a favorable field for prospecting, together with the statement that to the best of applicant's knowledge and belief the land applied for is not within any known geological structure of a producing oil or gas field.

(f) Proposed method of conducting exploratory operations, which must be in accordance with approved methods of exploration, amount of capital available for such operations, and the diligence with which such explorations will be prosecuted.

(g) Statement of the applicant's experience in operations of this nature, together with references as to his reputation and business standing.

(h) If the applicant is claiming a preference right as explained in the next succeeding section of these regulations, he should set up fully the facts upon which such preference right is based, together with a true copy of the posted notice.

(i) The application must be accompanied by a bond with qualified corporate surety, in the sum of \$1,000, conditioned against the failure of the permittee to repair promptly, so far as possible, any damage to the oil strata or deposits resulting from improper methods of operation. The penalty of the bond may be increased by the Secretary of the Interior when conditions warrant, particularly in relief cases. (Form of bond. See p. 34.)

5. PREFERENCE RIGHT, HOW SECURED.—A preference right over others to a permit may be obtained, under section 13 of the act, by—

(a) Erecting upon the land desired, subsequent to the approval of the act, a monument not less than 4 feet high, at some conspicuous place thereon, of such a size as to be visible to anyone who may be interested. The monument

may be of iron, stone, or durable wood, not less than 4 inches square or in diameter, and must be firmly imbedded in the ground.

(b) Posting on or near said monument a notice stating that an application for permit will be made within 30 days after date of posting said notice, the notice to give the date and hour of posting, to be signed by the applicant, and give such a general description of the land to be covered by the permit, by reference to courses and distances from such monument and other natural objects and permanent monuments, as will reasonably identify the land. The area, approximately, must also be stated, and the notice must be so protected as to prevent its destruction by the elements. The preference right will exist for 30 days after the date of posting such notice, and if no application is filed within that time, the land will be subject to any other application for permit or to other disposal.

(c) In cases of conflict between a preference right application, and one filed without any claim of preference, the priority of the initiation of the claim will govern, for example, the filing of a proper application in the land office prior to the posting of notice by another, as aforesaid, will give a prior right.

6. FORM AND REQUIREMENT OF PERMIT.—A permit will confer upon the recipient the exclusive right to prospect for oil or gas upon the lands embraced therein, provided he complies with the terms thereof, which permit will be, in form and substance, substantially as follows:

THE UNITED STATES OF AMERICA,

DEPARTMENT OF THE INTERIOR,

General Land Office.

U. S. Land Office———
Serial Number———

Know all men by these presents, That the Secretary of the Interior, under and by virtue of the act of Congress entitled, "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920, has granted and does hereby grant a permit to _____ granting _____ the exclusive right for _____ years from date hereof to prospect for oil or gas, but for no other purpose, the following described lands: _____, upon the express conditions following:

1. To mark each of the corners of the claim within ninety days from date hereof with substantial monuments so that the boundaries can be readily traced on the ground, and post in a conspicuous place, upon the lands covered hereby, a notice that such a permit has been granted, and a description of the lands covered by this permit.

2. Within six months (two years in Alaska) from date hereof to instal upon some portion of the lands a substantial and adequate drilling outfit and to commence actual drilling operations.

3. Within one year (three years in Alaska) from date hereof to drill one or more wells, not less than 6 inches in diameter to a depth of at least 500 feet each, unless valuable deposits of oil or gas shall be sooner discovered.

4. Within two years (four years in Alaska) from date hereof to drill one or more wells to a depth of at least 2,000 feet, unless valuable deposits of oil or gas shall be sooner discovered.

5. Not to drill any well within 200 feet of any of the outer boundaries of the lands covered by this permit unless the adjoining lands have been patented or the title thereto otherwise vested in private owners.

6. To carry on all operations hereunder in accordance with approved methods and practice; to use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by permittee to the oil sands or oil-bearing strata to the destruction or injury of the oil deposits, and to carry out, at the expense of the permittee, all reasonable orders of the Secretary of the Interior relative to prevention of waste and preservation of property, and to comply with such regulations as may be issued by the Secretary of the Interior as to methods of operation.

7. To furnish and maintain during the period of this permit a bond with qualified corporate surety, in the sum of \$_____, conditioned against the failure of the permittee

to repair promptly, so far as possible, any damage to the oil strata or deposits resulting from improper methods of operation. (Form of bond. See p. 34.)

8. That this permit is granted upon the express condition that the right is reserved to the Secretary of the Interior to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands covered hereby, as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in the act under which the permit is granted.

9. The granting of this permit shall not preclude the allowance of entry, location, or selection of any of the lands included therein, where such entry, selection, or location is made with a reservation of the mineral deposits to the United States.

10. That until this permittee shall apply for a lease to one-quarter or more of the area included herein, he shall pay to the United States 20 per cent of the gross value of all oil or gas secured by him from the lands and sold or otherwise disposed of, or held by him for sale or other disposition.

11. The Secretary of the Interior reserves the right and authority to cancel this instrument for failure of the permittee to comply with any of the conditions enumerated herein or to exercise due diligence in the work of development.

Valid rights existing at the date of this permit will not be affected thereby.

Dated this — day of — 19—.

_____,
Secretary of the Interior.

7. **EXTENSION OF LIFE OF PERMIT.**—If for any good reason the permittee is unable, with the exercise of diligence, to test the land within two years, application for extension for not to exceed two years may be filed within the life of the permit, and must be accompanied by a showing under oath, corroborated, as to the causes that make such extension necessary, and as to what efforts have been made to comply with the condition of the permit; ordinarily no extension will be granted in the absence of the minimum amount of drilling required by the permit. This application should be addressed to the Secretary of the Interior, and be filed either in the district land office or in the General Land Office. This privilege is not applicable to Alaska.

8. **REWARD FOR DISCOVERY.**—Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in the permit, within the period of the permit or extension thereof, the permittee is entitled (a) to a lease of one-fourth of the land included in the permit, on a royalty of 5 per cent, or for at least 160 acres if there be that area in the permit; (b) to a preference right to a lease for the remainder of the land covered by his permit at such royalty as may be fixed by the Secretary of the Interior, not less than $12\frac{1}{2}$ per cent in amount or value of the production, or the Secretary may, in his discretion, offer said land for lease at a royalty to be determined by competitive bidding, the preference right claimant to have the refusal of a lease at a royalty equivalent to that offered by the highest responsible bidder.

9. **PENALTY FOR DEFAULT.**—The permit will be subject to cancellation by the Secretary of the Interior for failure of the permittee to comply with any of the conditions enumerated therein or to exercise due diligence in the work of development.

In the absence of discovery of oil or gas within the period of the permit, or extension thereof, the permit will thereupon terminate and the lands or deposits will automatically revert to their original status, but the land will continue segregated pending action by the Land Department on any application for extension that is timely filed.

10. **PERMITS IN ALASKA.**—The foregoing rules and regulations generally will apply to permits in Alaska, under section 13 of the act, but with some modifications, viz:

(a) A person, association, or corporation is authorized to hold five permits at one time in said territory, and subdivision (c) of section 4 of these regula-

tions is not applicable. The applicant must show, in lieu thereof, that he does not hold an interest in more than four permits or leases in Alaska.

(b) The preference right treated under section 5 of these regulations extends for a period of six months after the erection of monument and posting of notice provided for therein, and the period for marking of the corners is extended to one year after the granting of the permit.

(c) The time for exploratory work in Alaska is four years, instead of two, and there is no provision for extension of such period. The various items necessary in this exploratory work are set forth in the form of permit herein provided, the Alaskan period being included in parentheses, after the period prescribed in the States.

11. PERMITS FOR RESERVED DEPOSITS.—The deposits of oil and gas in all lands for which a patent has issued with a reservation of the oil and gas to the United States, subject to the preference right, if any, explained in the next succeeding section hereof, may be included in a permit under the provisions of this act, conditioned upon the permittee filing with the Secretary of the Interior a satisfactory bond or undertaking as security for the payment of all damages to crops and improvements on such lands by reason of prospecting, as required by the act of July 17, 1914 (38 Stat., 509).

12. PREFERENCE RIGHT TO OWNER OF SURFACE.—A preference right to a permit is given to an owner of the land with a reservation of the oil deposits to the United States, under the following conditions:

(a) The land must have been withdrawn or classified as oil or gas lands; (b) entry must have been bona fide and made prior to such withdrawal or classification; (c) land must have been patented prior to the date of the act with a mineral reservation to the United States; (d) in case of an assignment, the land must have been transferred or assigned prior to January 1, 1918. (Modified and amended. See p. 34.)

(a) Should an application for permit for such lands be filed by a person other than the owner of the land, the applicant will be required to serve personal notice of such application upon the owner or owners of the land so patented, with a warning therein that if said owner desires to exercise his preference right, if any, to a permit, he must file within 30 days his application therefor in the proper local land office. The applicant must furnish evidence of the service of notice on the owner and evidence that the party served is the owner of the land involved, either by his affidavit, duly corroborated, or by certificate of the officer in whose office transfers of real property are to be recorded.

(b) The preference-right applicant must show that he is entitled under the section above outlined, together with his qualifications to hold a permit as previously set forth in these regulations, and if such an application be filed, the Secretary of the Interior will award the permit to the party entitled thereto.

(c) The preference right of those owning lands coming within the provisions hereof will exist until exercised by the claimant or until an adverse application has been filed, due notice given in accordance with these regulations, and the permit awarded to one or the other of the applicants.

(d) Any claimants to lands of this character may combine their holdings for the purpose of making joint application for a permit, provided the aggregate area does not exceed 2,560 acres and that all the lands for which application is made are within an area of 6 miles square, or within the same township,

(e) The right of a permittee under a preference-right permit to a lease after discovery is governed by other provisions of the act, as set forth in section 8 of these regulations.

II.—OIL AND GAS LEASES.

13. DESIGNATION AND OFFER OF LANDS FOR LEASE.—Pursuant to the provisions of section 17 of the act, the unappropriated deposits of oil or gas situated within known geologic structures of producing oil or gas fields, and the lands containing same, will be divided into leasing blocks or tracts in areas not exceeding 640 acres each, and not exceeding in length two and one-half times their width, and offered for lease at a stated royalty by competitive bidding to the highest responsible bidder having the qualifications prescribed by section 15, paragraph (a), hereof.

14. NOTICE OF LEASE OFFER.—Notice of the offer of lands for lease will be given by publication in a newspaper of general circulation in the county in which the lands or deposits are situated for a period of 30 days; such notice will state the day and hour on which the offering will be made at public auction at the United States land office of the district in which the lands are situated, to the qualified bidder offering the highest bonus for the lease at the stated rental and royalty. Copy of the notice will be posted in said local office during the period of publication. This notice will be published at the expense of the Government. All bidders at any such auction are warned against violation of the provisions of section 59 of the United States Criminal Code, approved March 4, 1909, prohibiting unlawful combination or intimidation of bidders.

15. AUCTION OF LEASE.—At the time fixed in the notice, the register or receiver will, by public auction, offer the land for lease on the terms and conditions as to payments of royalties and rents fixed in the notice, to the qualified bidder of the highest amount offered as a bonus for the privilege of leasing the land. The successful bidder must deposit with the receiver on the date of the sale, certified check on a solvent bank, or cash, for one-fifth the amount bid by him, which payment the receiver will credit to "Trust funds—Unearned moneys." At the time of such payment the successful bidder will also file the requisite showing of his qualifications to receive a lease, which shall include the following:

(a) Proof of citizenship of applicant; by affidavit of such fact, if native born, or if naturalized, by certified copy of the certificate of naturalization, on the form provided for use in public land matters, unless such copy is already on file; if a corporation, by certified copy of the articles of incorporation and evidence that none of its stockholders are citizens of another country, the laws, customs, and regulations of which deny similar or like privileges to citizens or corporations of this country. (Substituted. See p. 33.)

(b) The affidavit of the bidder or the affidavit of one of the officers of a corporate bidder that the bidder does not hold another lease in the geologic structure of the same producing oil or gas field, nor more than two leases, or a lease and a permit, in the State, except under sections 18, 18a, 19, and 22 of the act; and also that the acceptance of the lease by such successful bidder will not be in violation of the provisions of section 27 of the act relative to excess holdings by individuals or corporations.

The register and receiver will thereupon transmit such showing, together with a report of the proceedings had at the auction, by special letter to the Commissioner of the General Land Office.

16. AWARD OF LEASE.—On receipt of the report of the auction from the register and receiver, the Secretary of the Interior will take action thereon, and either award the lease to the successful bidder or reject same, notice of which will be forthwith transmitted to the bidder through the local office. If the lease shall be awarded, the notice will be accompanied by copies of leases for execu-

tion by the lessee, who shall, within 30 days from receipt of such notice, execute said lease in triplicate, and pay to the receiver the balance of the bonus bid by him, together with the first year's rental, and also cause to be filed in the land office the bond required by section 2 (a) of the lease; in lieu of such bond, Liberty bonds will be taken at par in the amount of the bond, as provided in the act of February 24, 1919 (40 Stat., 1148). If the bid be rejected, the receiver will return, by his official check, the deposit made at the auction. In case of the award of a lease and failure on the part of the bidder to execute same, and otherwise comply with the applicable regulations, the deposit made will be considered forfeited and disposed of as other receipts under this act.

17. FORM OF LEASE.—The lease referred to in the preceding sections will be in form and substance, substantially as follows:

U. S. Land Office ———
Serial No. ———

DEPARTMENT OF THE INTERIOR.

Lease of oil and gas lands under the act of February 25, 1920.

Date—Parties.—This indenture of lease entered into, in triplicate, this ——— day of ——— A. D., 19 —, by and between the United States of America, acting in this behalf by the Secretary of the Interior, party of the first part, hereinafter called the lessor, and ——— of ———, party of the second part, hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the act of Congress approved February 25, 1920, Public No. 146, entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," hereinafter referred to as the act, which is made a part hereof, witnesseth:

SECTION 1. Purposes.—That the lessor in consideration of rents and royalties to be paid, and the covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for mine, extract, remove and dispose of all the oil and gas deposits in or under the following described tracts of land situated in the county of ———, State of ———, and more particularly described as follows: ——— containing — acres, more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph or telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment hereof, for a period of 20 years, with the preferential right in the lessee to renew this lease for successive periods of 10 years, upon such reasonable terms and conditions as may be prescribed by the lessor, unless otherwise provided by law at the time of the expiration of such periods.

SEC. 2. In consideration of the foregoing, the lessee hereby agrees:

(a) **Bond.**—To furnish a bond with approved corporate surety in the penal sum of \$5,000, conditioned upon compliance with the terms of the lease.

(b) **Commence drilling.**—The lessee agrees, within three months from delivery of executed lease, to proceed with reasonable diligence to install on the leased ground a standard or other efficient drilling outfit and equipment, and to commence drilling at least one well, and to continue such drilling with reasonable diligence to production, or to a point where the well is demonstrated unsuccessful, and thereafter to continue drilling with reasonable diligence at least one well at a time until the lessee shall have drilled wells equal in number to the number of forty-acre tracts embraced in the leased premises, unless the lessor shall, for any reason deemed sufficient, consent in writing to the drilling of a less number of wells; the lessee further agrees to drill all necessary wells fairly to offset the wells of others on adjoining land or deposits not the property of the United States.

(c) **Royalty and rents.**—To pay the lessor in advance, beginning with the date of the execution of this lease, a rental of one dollar per acre per annum during the continuance hereof, the rental so paid for any one year to be credited on the royalty for that year, and, in addition to such rental, a royalty of — per cent of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or, on demand of the lessor, — per cent of the oil or gas produced (except oil or gas used for production purposes on said lands, or unavoidably lost), in which case credit for rent shall be on the basis of the current field price of oil, the royalty, when paid in value, to be due and payable monthly on the 15th of each month following the month in which produced, to the receiver of public moneys of the proper land district; and when paid in kind, to be delivered in the field where

produced at such times, and in such manner as may be required by the lessor; such royalties, whether in value or kind, shall be subject to reduction whenever the average daily production of any oil well shall not exceed ten barrels per day, if in the judgment of the lessor the wells can not be successfully operated upon the royalties fixed herein.

(d) Sales contract.—Not to sell or otherwise dispose of any of the oil or gas produced hereunder, except for production purposes on the land leased, other than under and in accordance with a sales contract or other method, that shall first be approved by the Secretary of the Interior. (Amended. See p. 33.)

(e) Monthly statement.—To furnish monthly statements in detail in such form as may be prescribed by the lessor, showing the amount and value of all oil and gas produced and saved during the preceding calendar month as the basis for computing the royalty due the lessor. The leased premises and all wells, improvements, machinery, and fixtures thereon or connected therewith and all books and accounts of the lessee shall be open at all times for the inspection of any duly authorized officer of the Department.

(f) Plats and reports.—To furnish annually, and at such other time as the Secretary shall require, in the manner and form prescribed by the Secretary of the Interior, a plat showing all development work and improvements on the leased lands, and other related information, with a report as to all buildings, structures, or other works placed in or upon said leased lands, accompanied by a report in detail as to the stockholders, business transacted, investment, depreciation, cost of operation, assets, and liabilities of the lessee, together with a statement as to the amount and grade of oil and gas produced and sold, amount received therefor, and the amount in storage by operations hereunder. (Amended. See p. 33.)

(g) Log of wells.—To keep a log in the form prescribed by the Secretary of all the wells drilled by the lessee, showing the strata and character of the ground passed through by the drill, which log, or copy thereof, shall be furnished to said lessor on demand.

(h) Diligence—Prevention of waste—Health and safety of workmen.—To exercise reasonable diligence in drilling and operating wells for the oil and gas on the lands covered hereby, while such products can be secured in paying quantities, unless consent to suspend operations temporarily is granted by the Secretary of the Interior; to carry on all operations hereunder in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the oil sands or oil-bearing strata to the destruction or injury of the oil deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; to plug securely any well before abandoning the same so as to effectually shut off all water from the oil or gas bearing strata; not to drill any well within 200 feet of any of the outer boundaries of the land covered hereby, unless the adjoining lands have been patented or the title thereto otherwise vested in private owners; to conduct all mining, drilling, and related productive operations subject to the inspection of the lessor; to carry out at expense of the lessee all reasonable orders and requirements of lessor relative to prevention of waste, and preservation of the property and the health and safety of workmen, and on failure so to do the lessor shall have the right to enter on the property to repair damage or prevent waste at the lessee's cost; to abide by and conform to regulations in force at the time the lease is granted covering the matters referred to in this paragraph.

(i) Taxes and wages—Freedom of purchase.—To pay when due, all taxes lawfully assessed and levied under the laws of the State upon improvements, oil, and gas produced from the lands hereunder, or other rights, property, or assets of the lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(j) Reserved deposits.—To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(k) Excess holdings.—To observe faithfully the provisions of section 27 of the act defining the interest or interests that may be taken, held, or exercised under leases authorized by said act.

(l) Assignment of lease.—Not to assign this lease or any interest therein, nor sublet any portion of the leased premises, except with the consent in writing of the Secretary of the Interior first had and obtained.

(m) Deliver premises in case of forfeiture.—To deliver up the premises leased, with all permanent improvements thereon, in good order and condition in case of forfeiture of this lease.

SEC. 3. The lessor expressly reserves:

(a) Rights reserved—Easements and rights of way.—The right to permit for joint or several use such easements or rights of way, including easements in tunnels upon, through,

or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same or of other lands containing the deposits described in said act, and the treatment and shipment of products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

(b) Disposition of surface.—The right to lease, sell, or otherwise dispose of the surface of the lands embraced within this lease under existing law or laws hereafter enacted in so far as said surface is not necessary for the use of the lessee in the extraction and removal of the oil and gas therein.

(c) Pipe lines to convey at reasonable rates.—The right to require the lessee, his assignee, or beneficiary, if owner, or operator, or owner of a controlling interest in any pipe line, or any company operating the same which may be operated accessible to the oil derived from lands under such lease, to accept and convey at reasonable rates and without discrimination the oil of the Government or of any citizen or company, not the owner of any pipe line, operating a lease or purchasing oil or gas under the provisions of this act.

(d) Monopoly and fair prices.—Full power and authority to carry out and enforce all the provisions of section 30 of the act, to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, to prevent monopoly, and to safeguard the public welfare.

(e) Helium.—Pursuant to section 1 of the act, the lessor reserves the right to take all helium from any gas produced under this lease, but the lessee shall not be required to extract and save the helium for the lessor; in case the lessor elects to take the helium, the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor in the manner required by the lessor, for the extraction of the helium in such plant or reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof; provided, that the lessee shall not, as a result of the operation in this section provided for, suffer a diminution in value of the gas from which the helium has been extracted, or loss otherwise, for which the lessee is not reasonably compensated, save for the value of the helium extracted; the lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

SEC. 4. Surrender and termination of lease.—The lessee may, on consent of the Secretary of the Interior first had and obtained in writing, surrender and terminate this lease upon the payment of all rents, royalties, and other obligations due and payable to the lessor, and upon payment of all wages and moneys due and payable to the workmen employed by the lessee, and upon a satisfactory showing to the Secretary that the public interest will not be impaired; but in no case shall such termination be effective until the lessee shall have made full provision for conservation and protection of the property; upon like consent had and obtained the lessee may surrender any legal subdivisions of the area included herein.

SEC. 5. Purchase of materials, etc., on termination of lease.—Upon the expiration of this lease, or the earlier termination thereof pursuant to the last preceding section, the lessor or another lessee may, if the lessor shall so elect within six months from the termination of the lease, purchase all materials, tools, machinery, appliances, structures, and equipment placed in or upon the land by the lessee, on the payment to the lessee of such sum as may be fixed as a reasonable price therefor by a board of three appraisers, one of whom shall be chosen by the lessor, one by the lessee, and the other by the two so chosen; pending such election all equipment shall remain in normal position. If the lessor, or another lessee, shall not, within six months, elect to purchase all of such materials, tools, machinery, appliances, structures, and equipment, or shall elect to purchase only a part thereof, the lessee shall have the right at any time within 90 days to remove from the premises herein all of the said materials, tools, machinery, appliances, structures, and equipment, or such part thereof as the lessor, or other lessee, may not have elected to purchase, save and except casing in wells and other equipment or apparatus necessary for the preservation of the well or wells.

SEC. 6. Judicial proceedings in case of default.—If the lessee shall fail to comply with the provisions of the act, or make default in the performance or observance of any of the terms, covenants, and stipulations hereof, or of the general regulations promulgated and in force at the date hereof, and such default shall continue after service of written notice thereof by the lessor, then the lessor may institute appropriate judicial proceedings for the forfeiture and cancellation of this lease in accordance with the provisions of section 31 of said act; but this provision shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of this lease for any other cause of forfeiture, or for the same cause occurring at any other time.

SEC. 7. Heirs and successors in interest.—It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

SEC. 8. Unlawful interest.—It is also further agreed that no Member of, or Delegate to Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom, and the provisions of section 3741 of the Revised Statutes of the United States, and sections 114, 115, and 116 of the Codification of the Penal Laws of the United States approved March 4, 1909 (35 Stat., 1109), relating to contracts enter into and form a part of this lease so far as the same may be applicable.

In witness whereof

THE UNITED STATES OF AMERICA,
By _____ [L. S.]

Witness:

_____ [L. S.]

III.—RELIEF MEASURES.

Sections 18, 19, and 22 of the act provide for the "relief," so-called, of certain defined claimants of oil and gas lands, who at date of the act had not perfected their claims under the preexisting mining laws, and are prevented from doing so by withdrawal of the land or by this act.

18. CONDITIONS FOR RELIEF UNDER SECTION 18:

(a) That the land claimed must have been included in the Executive order of withdrawal of September 27, 1909, and must have remained so withdrawn.

(b) That the claim must have been initiated under the placer mining laws prior to July 3, 1910, and claimed and possessed continuously from that time.

(c) That claimant's interest in the land must have been acquired prior to September 1, 1919, except lands acquired by exchanges made prior to the 1st day of January, 1920, which did not increase or reduce the acreage held or claimed in excess of the maximum by either party. (Substituted. See p. 33.)

(d) That claimant or predecessors must have drilled an oil or gas well on the land to discovery.

(e) That all conflicting claims initiated prior to July 1, 1919, must have been disposed of, as provided in section 28 hereof or otherwise. (Amended. See p. 33.)

(f) That no claimant who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

(g) That all parties having an interest in the claim by stock ownership, stock holding or stock control, must be citizens of the United States, or of a country, the laws, customs, or regulations of which do not deny like or similar privileges to citizens or corporations of the United States. (Stricken out. See p. 33.)

(h) That claimant must, on or before August 25, 1920, file a relinquishment to the United States of all right, title, and interest in and to the land, together with an application for a lease. This relinquishment must be in the form of an unconditional quitclaim deed, duly executed and acknowledged, but not recorded, and when filed will be held for such action as the facts and the law in the case warrant and require.

(i) That claimant must pay for one-eighth of the value at the time of production of all oil and gas produced prior to date of filing relinquishment and application for relief, exclusive of oil and gas used on the land for production purposes, or unavoidably lost.

19. RELIEF THAT MAY BE GRANTED UNDER SECTION 18:

(a) Lands not in naval petroleum reserves.—A qualified claimant, upon complying with the provisions of the act and these regulations, will be entitled to a 20-year lease from the United States, commencing and effective as of the date of filing relinquishment and application for relief, substantially in the form prescribed in section 17 hereof, at a royalty to be fixed by the Secretary of the Interior, but not less than $12\frac{1}{2}$ per cent of all oil and gas produced exclusive of that used for production purposes on the claim, or unavoidably lost. There is, however, a limitation placed by the act upon the acreage that may be included in such lease. If the geologic oil or gas structure of the producing field in which the claim is situated does not exceed 640 acres in area the lease may include the entire area if covered by the claim; but if the area of such structure exceeds 640 acres the act provides that not more than one-half of the area, same to be selected by the claimant but in no case to exceed 3,200 acres, may be leased to any one claimant.

(b) Lands in naval petroleum reserves.—If the land claimed is within a naval petroleum reserve the claimant will be entitled to lease only the producing wells on the claim, together with an area of land sufficient for the operation of such wells, upon a royalty to be fixed by the Secretary of the Interior but not less than $12\frac{1}{2}$ per cent of the production except that used for production purposes on the claim or unavoidably lost. The act forbids the drilling of any wells in lands subject to this provision within 660 feet of the leased wells without the consent of the lessee. It further provides that the President may, in his discretion, lease the remainder or any part of the claim on which such wells have been drilled, and in the event of such leasing the claimant shall have a preference to such lease. The President may also permit the lessee of any well to drill additional wells within the limited area of 660 feet upon such terms and conditions as he may prescribe. These terms and conditions can not be prescribed here, but will be determined on the merits in each separate case.

(c) Royalties.—The royalties payable under leases granted pursuant to section 18 of this act are hereby determined and prescribed as follows:

For all oil of 30 degrees Baumé or over, upon each claim on which the wells averaged 200 barrels or more per day per month, $33\frac{1}{3}$ per cent; upon each claim on which the wells averaged from 100 to 200 barrels per day per month, 25 per cent; upon each claim on which the wells average from 50 to 100 barrels per day per month, 20 per cent; upon each claim on which the wells average from 20 to 50 barrels per day per month, $16\frac{2}{3}$ per cent, and upon each claim on which the wells average less than 20 barrels per day per month, $12\frac{1}{2}$ per cent.

For all claims producing oil of less than 30 degrees Baumé, upon each claim on which the wells average 200 barrels or more per day per month, 25 per cent; on each claim on which the wells average 100 to 200 barrels per day per month, 20 per cent; upon each claim on which the wells average from 50 to 100 barrels per day per month, $16\frac{2}{3}$ per cent; upon each claim on which the wells average from 20 to 50 barrels per day per month, $14\frac{2}{7}$ per cent, and upon each claim on which the wells average less than 20 barrels per day per month, $12\frac{1}{2}$ per cent.

The royalties on gas produced, if any, will be fixed and determined in each lease. (Amended. See p. 34.)

20. CONDITIONS FOR RELIEF UNDER SECTION 19:

A. For permit.—(a) That the land must not be in a naval petroleum reserve.

(b) That applicant must have been an occupant or claimant of the land on October 1, 1919, under a claim initiated under the placer mining laws by him or his predecessor when the land was not withdrawn.

(c) That claimant, by himself or predecessor in interest, must have performed all acts under the preexisting laws necessary to valid locations, except to make discovery.

(d) That prior to February 25, 1920, claimant must have performed work or expended on or for the benefit of such locations an amount equal in the aggregate to \$250 for each location.

(e) That no claimant who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

(f) That all parties having an interest in the claim by stock ownership, stock holding, or stock control, must be citizens of the United States or of a country the laws, customs, or regulations of which do not deny like or similar privileges to citizens or corporations of the United States. (Stricken out, p. 34.)

(g) That claimant must, on or before August 25, 1920, file a relinquishment to the United States of all right, title, and interest in and to the land, together with an application for a permit. This relinquishment must be in the form of an unconditional quitclaim deed, duly executed and acknowledged, but not recorded, and when filed will be held for such action as the facts and the law in the case warrant and require.

B. For lease.—The conditions necessary to obtaining a lease under section 19 of the act are identical with those outlined in paragraphs (a), (b), (e), (f), and (g), for permits, together with the following additional conditions:

(a) That claimant must have made a discovery of oil or gas on or before February 25, 1920.

(b) That claimant must not be entitled to relief on the land in question under section 18 of the act.

(c) That claimant must pay for one-eighth of the past production up to date of filing application for relief, exclusive of that used on the land for production purposes or unavoidably lost.

21. RELIEF THAT MAY BE GRANTED UNDER SECTION 19:

(a) A claimant qualified under the above conditions relating to permits, upon complying with the provisions of the act and these regulations, will be entitled to a prospecting permit upon the same terms, conditions, and limitations as to acreage, as other permits provided for in the act, substantially in form prescribed in section 6 hereof. Only one permit for not exceeding 2,560 acres will be granted to the same person, association, or corporation; hence all claims for relief in the form of a permit should be embraced in a single application. (Amended. See p. 34.)

(b) A claimant qualified under the above conditions relating to leases is entitled to a 20-year lease from the United States, effective from date of filing application for relief, substantially in the form prescribed in section 17 hereof, the royalty to be fixed by the Secretary of the Interior, but such royalty may not be less than $12\frac{1}{2}$ per cent of all oil and gas produced exclusive of that used for production purposes on the land or unavoidably lost. In the event the land is in the geologic structure of proven territory at the time of granting the permit under this section, the royalty required under the lease based thereon shall not be less than $12\frac{1}{2}$ per cent, but if at the time the permit is granted the land is not in proven territory, the amount of royalty will be governed by the general terms of the act as set out in section 14 thereof.

22. ALASKA CLAIMS—CONDITIONS FOR RELIEF UNDER SECTION 22:

A. For permit.--(a) That claimant must have been an occupant or claimant of the land on February 25, 1920, under a claim initiated under the placer mining laws by claimant or predecessors prior to November 3, 1910, the date

of the Executive order withdrawing all public lands in Alaska containing petroleum deposits, including those in national forests.

(b) The claimant must have performed all acts prior to November 3, 1910, under the then existing laws necessary to valid locations except to make discovery.

(c) That claimant, (1) prior to November 3, 1910, must have made substantial improvements for the discovery of oil or gas on or for each location, or (2) prior to February 25, 1920, expended not less than \$250 in improvements on or for the benefit of each location.

(d) That claimant must on or before February 25, 1921, or within six months after final denial or withdrawal of application for patent, file a relinquishment to the United States of all right, title, and interest in and to the land, executed in the usual form. This relinquishment must be in the form of an unconditional quitclaim deed, duly executed and acknowledged, but not recorded, and when filed will be held for such action as the facts and the law in the case warrant and require.

In addition to the above, the conditions outlined in paragraphs (f) and (g) of sections 20th hereof, are applicable to relief in Alaska.

B. FOR LEASE.—The conditions necessary to obtaining a lease under section 22 of the act are identical with those outlined in the paragraphs relating to permits in Alaska together with the following additional conditions:

(a) That claimant or predecessors must have drilled an oil or gas well on the land to discovery.

(b) That claimant must pay for one-eighth of the past production exclusive of that used on the land for production purposes or unavoidably lost.

23. ALASKA CLAIMS—RELIEF THAT MAY BE GRANTED UNDER SECTION 22:

(a) A claimant qualified under the above conditions relating to permits, upon complying with the conditions of the act and these regulations will be entitled to prospecting permits under the same terms and conditions as other permits in Alaska provided for in section 13 of the act, substantially in the form prescribed in section 6 hereof.

(b) A claimant qualified under the above conditions relating to leases is entitled to a lease substantially in the form prescribed in section 17 hereof, the rental and royalty to be fixed by the Secretary of the Interior and specified in the lease, subject to readjustment at the end of each 20-year period of the lease.

(c) Only five permits or leases in the aggregate may be held at any one time by any claimant, and not more than 1,280 acres may be included in one permit under section 22 of the act.

24. BENEFICIARIES UNDER LEASES OR PERMITS.—All leases or permits under sections 18, 19, and 22 shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear, subject to the same limitations as to area and acreage as is provided for claimant, but such persons will not necessarily be made parties to Government leases, and may assert their rights in the courts. Disputes of this character are not to be confused with adverse claims based upon independent title, hereinafter referred to. (See section 28 hereof.)

25. FORM AND CONTENTS OF APPLICATION.—No set forms of application for a lease under sections 18, 19, or 22, or a permit under sections 19 and 22 of the act can be prescribed because the facts and circumstances pertaining to claims for relief are so varied. Applications for such leases or permits must be made under oath and the supporting documents and papers certified or under oath so far as practicable. The application, with all the accompanying papers, should be filed in the United States land office of the district in which the land is situ-

ated. Applications and supporting papers need not be executed in duplicate, but one complete copy of each application and supporting papers (except abstract of title) should be filed with the application, which copy will be transmitted by the register and receiver to the Chief of Field Division and notation to that effect made on the original. The application should contain full information as to the facts upon which the applicant relies for relief, covering the following points and such additional matters as may, from the peculiar facts in the case, be material in the establishment of his claim under the law:

(a) Date of application for lease or permit.

(b) Applicant's name and post-office address.

(c) Description of land.—The land for which the application is made must be described by legal subdivisions of section, township, and range, if surveyed; if not surveyed, then by metes and bounds and courses and distances from some permanent monument. If the application is for a lease of unsurveyed land, the applicant, after he has been awarded the right to a lease, but before issuance thereof, will be required to deposit with the United States surveyor general of the State in which the land is situated the estimated cost of making a survey of the land, the balance, if any, after the survey is completed to be returned.

(d) Origin and basis of applicant's claim for relief.—The applicant must bring his claim clearly within all the requirements of the act as specifically pointed out in sections 18, 20, and 22 of these regulations. Every application must be supported by a duly certified abstract of title to the land, brought up to the date of filing the application. In the event an abstract of title is already on file in the Land Department, a supplemental abstract extending over the period or periods not covered by the former, may be furnished, and if furnished will be considered in connection with the abstract already on file. If any fraud has been committed in connection therewith, then a full affirmative showing must be made by the applicant to the effect that he has not been a party to such fraud, and that he has not been guilty of any fraud or had knowledge of fraud or reasonable grounds to know of any fraud in connection with his claim. If an application for patent has been filed, a brief résumé of the actions taken thereon should be stated. If the land is or has been involved in litigation in the courts, to which the United States is a party, the status or result of such litigation should be furnished.

(e) Particulars as to conflicting claims or interests.—All conflicting or disputed claims, if any, to the land or production therefrom, specifying the character and extent of such interests, must be shown.

(f) Discovery.—Before a lease may be awarded under the relief sections of the act it must be satisfactorily shown that the applicant or his predecessors have drilled a well to a substantial and certain discovery of oil or gas in a producing stratum on the land covered by the location under which the applicant is asserting his claim.

(g) Wells, improvements, and production.—With each application for a lease under sections 18, 19, or 22 of the act there must be filed a complete and detailed statement showing the number, depth, condition, and present daily production of all wells drilled on the land by the applicant and his predecessors in interest, and the nature and extent of all other improvements placed thereon by them.

With each application for a permit under sections 19 or 22 of the act, a description of the work performed and improvements made upon or for the benefit of the location by the applicant and his predecessors must be filed, together with an itemized statement of the cost thereof. If the application is made under section 22, the date the work was performed or the improvements made must also be shown.

In either case applicant must show the position of all wells and improvements by courses and distances from the nearest corner of the public land survey, if the land is surveyed; if not surveyed, then from a corner of the claim. This may be shown by means of a diagram.

(h) Amount and value of past production.—Claimant must furnish a complete detailed statement, by months, of all past production from the land, up to the date of filing the application and relinquishment, showing (1) the grade and total quantity of oil and gas produced; (2) the amount sold or otherwise disposed of, to whom sold, and the selling price or other consideration received therefor; (3) a statement of the grade and amount of any and all such production held in storage, when produced, and the value at time of production; and (4) the amount consumed for production purposes on the land, or unavoidably lost.

The statement of sales should be corroborated by the purchasers. Copies of any and all contracts under which oil or gas produced from the land has been or is being sold or otherwise disposed of must be furnished. (Amended. See p. 34.)

(i) Investment and cost of operation.—The applicant should make a full showing as to (1) the actual cost of wells, improvements, and equipment for the development of and operation upon the land; (2) the present value of such wells, improvements, and equipments; and (3) the present cost of operation. (Substituted. See p. 34.)

(j) Interest in other leases and permits.—The applicant will also furnish a complete statement of all lands for which he has filed application for lease or permit under sections 18, 19, and 22 of the act, and of such lands as are included in other applications in which he has any direct or indirect interest, together with a full disclosure of such interest by stock ownership or otherwise. If the applicant is a corporation, a certified copy of its articles of incorporation must be furnished, and a full disclosure made of the ownership of its stock, whether such stock is owned, held, or controlled directly or indirectly by any other person or corporation, who or which is an applicant for or a holder of a lease under said sections, and, in the event of such ownership, a description of the legal subdivisions of all the lands affected thereby is required. In the event the lands so affected are not surveyed they may be described by the usual method of courses and distances and acreage.

(k) Limitation of area.—The application should show that the area applied for, together with any other areas for which the applicant has made application for a lease or permit or in which he is directly or indirectly interested, is not in excess of the limitations provided in sections 18, 19, or 22 of the act, as the case may be, as to the maximum area that may be leased to any one person or corporation within the same geologic oil or gas structure. (See secs. 19, 21, and 23 hereof.) The boundaries of the geologic structures of the various producing fields will be determined and announced by the United States Geological Survey under supervision of the Secretary of the Interior and such information will be placed on file in all United States land offices. (Amended. See p. 34.)

26. PAYMENT OF ROYALTY ON PAST PRODUCTION.—The application must be accompanied by a certified check in the amount of one-eighth of the gross value of all oil and gas produced and sold or held in storage, as per the statement required in paragraph 25 (h). All such sums will be held by the receiver in his account of "Trust Funds—Unearned Moneys" to await instructions as to their disposition. In lieu of the certified check herein required, the applicant may be permitted to deposit a bond by approved surety company in an amount not less than one-eighth of the estimated gross value of all oil and gas produced and sold or held in storage, securing the payment to the United States within

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thirty days from the award of the lease of the cash value of the past production due the United States under this act. In cases where the proceeds, or part thereof, of such past production have been deposited in escrow, pursuant to operating agreements under the act of August 25, 1914 (38 Stat., 708), or where in suits brought by the Government affecting such lands the proceeds of production, or part thereof, have been impounded in the custody of receivers, a formal tender may be made of the funds so held in escrow or impounded to the extent available or in the amount necessary, as the case may be, in lieu of such cash payment. In such cases the interest accumulating on such escrowed or impounded moneys after the tender is made will go to the Government.

Operating contracts made under the provisions of the act of August 25, 1914, *supra*, and in operation at the time of such tender, will not be terminated until the entire transaction of granting a lease and payment of royalty on past production shall have been consummated; nor will the Department of Justice be requested to dismiss any suits involving the land affected until the application for a lease has been adjudicated and approved; whereupon, after the suit has been dismissed and the impounded money tendered paid over to the Government, the lease will be executed and delivered.

27. PUBLICATION OF NOTICE.—Immediately upon the filing of an application for a lease or permit under sections 18, 19, or 22 of the act, the register and receiver will cause to be published, at the expense of the applicant, in a newspaper designated by the register, published in the vicinity of the land and most likely to give notice to the general public, a notice of the said application in substantially the following form:

DEPARTMENT OF THE INTERIOR.

UNITED STATES LAND OFFICE.

Notice is hereby given that _____ of _____, has applied for an oil and gas _____ under section _____ of the act of February 25, 1920 (Public, No. 146), for _____ section _____, township _____ of range _____, _____ meridian, _____ County, State of _____. Any and all persons having adverse or conflicting claims to said land are hereby notified that a full statement, under oath, of such claim should be filed in this office together with an application showing a superior right to a permit or lease under said act or in lieu of such application, a showing of a valid existing adverse or conflicting claim to the land or the minerals therein under the public land laws, on or before _____; otherwise such claim may be disregarded in granting the permit or lease applied for.

_____,
Register.

(Amended. See p. 34.)

The register and receiver will fix a date in the notice on or before which adverse or conflicting claims may be asserted, which date should be not less than 30 nor more than 40 days after the date of first publication of the notice.

Such notice will be published in the regular issue and not in any supplement of the newspaper, once each week for a period of five consecutive weeks if in a weekly paper, or if in a daily paper for a period of 30 days. The register and receiver will post a copy of said notice in a conspicuous place in their office during the period of publication.

Upon the applicant's furnishing satisfactory proof of such publication, but not earlier than the day following that set in the published notice on or before which adverse or conflicting claims were to be filed, the register and receiver will transmit by special letter all papers in the case including any adverse or conflicting claims that may have been filed, together with proof of posting said notice in their office, to the Commissioner of the General Land Office.

28. ADVERSE OR CONFLICTING CLAIMS—PROCEDURE.—In case of adverse or conflicting claims for leases under sections 18, 19, or 22, or permits under sections 19 or 22, the Secretary of the Interior is clothed with authority to grant leases or permits, as the case may be, to one or more of them as shall be deemed just.

(a) To have their claims considered in connection with the awarding of leases or permits it will be necessary for adverse claimants to make full showing (1) of a superior right to a lease or permit under this act, or (2) a superior right under some other public land law. If the former the conflicting claimant must make out a complete case in his own behalf as required by these regulations. (Amendment. See p. 34.)

(b) Upon receipt of the application and showing of an adverse claimant the Commissioner of the General Land Office will consider same. If, in his judgment, the adverse claimant has failed to make a prima facie case showing that he is entitled to a lease or permit, as the case may be, for at least part of the land, his application will be rejected subject to appeal to the Secretary of the Interior. But if the adverse claimant makes out a prima facie case the Commissioner will take such course as may be advisable under the circumstances of each particular case to settle and adjust the rights of the respective parties, and may, if deemed necessary, order a formal hearing to settle disputed questions of fact. In the absence of appeal to the Secretary of the Interior from the final order or decision of the Commissioner, same shall be conclusive.

29. COMPROMISES UNDER SECTION 18A.—No special procedure will be outlined under this section. Any request for a compromise or settlement under this section which may be filed in the Land Department will be transmitted to the President with such report as may be deemed advisable under the circumstances of the particular case. In case the land is in a naval petroleum reserve the Navy Department will be consulted before making such report.

IV.—RIGHTS OF WAY FOR PIPE LINES.

30. Section 28 of the act grants to any applicant having the qualifications outlined in section 1 of these regulations, rights of way through public lands of the United States, including national forests, for pipe-line purposes for the transportation of oil or natural gas, on condition that the pipe lines for which rights of way are granted shall be operated and maintained as common carriers. The grant carries with it the right to the use of the ground actually occupied by the pipe line, and 25 feet on each side thereof for the purpose of construction, maintenance, and operation of the pipe line. Applicants for rights of way under this act will be governed by the regulations set forth in circular of June 6, 1908 (36 L. D., 567) in so far as applicable, appropriate changes being made in the forms therein prescribed to make them applicable to right-of-way cases arising under the act of February 25, 1920 (Public No. 146), for pipe lines to be constructed, maintained, and operated as common carriers. Failure on the part of grantee to fulfill the conditions imposed by the act shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is situated.

V.—FEES AND COMMISSIONS.

31. Under the authority of section 38 of the act, the following fees and commissions are prescribed for transactions under the act:

(a) For receiving and acting on each application for a permit, lease, or other right filed in the district land office in accordance with these regulations,

there shall be paid a fee of \$2 for each 160 acres, or fraction thereof, in such application, but such fee in no case to be less than \$10, the same to be paid by the applicant and considered as earned when paid, and to be credited in equal parts on the compensation of the register and receiver within the limitations provided by law.

(b) A commission of 1 per cent on all moneys received in each receiver's office, to be equally divided between the register and receiver; such commission will not be collected from the applicant, lessee, or permittee in addition to the moneys otherwise provided to be paid.

It should be understood that the commission here provided for will not affect the disposition of the proceeds arising from operations under the act as provided in section 35 thereof; also that such commission will be credited on compensation of registers and receivers only to the extent of the limitation provided by law for maximum compensation of such officers.

VI.—REPEALING AND SAVING CLAUSES.

32. Section 37 of the act provides that hereafter the deposits of coal, phosphate, sodium, oil, oil shale, and gas, referred to and described therein, may be disposed of only in the manner provided in the act "except as to valid claims existent at date of passage of this act, and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery."

Stated negatively, under this section of the act, the following classes of oil or gas placer locations, so called, notwithstanding absence of fraud and full compliance with law in other respects, may not proceed to patent, viz:

(a) Any location made after withdrawal of the land.

(b) Any location made before withdrawal of the land but not perfected by discovery at date of withdrawal, which does not come within the protective proviso of section 2 of the act of June 25, 1910 (36 Stat., 847); that is to say, any claimant who, at date of withdrawal, was not a bona fide occupant or claimant in diligent prosecution of work leading to discovery of oil or gas, and who has not continued in such diligent prosecution to discovery.

(c) Any location on lands not withdrawn, on which, at the date of the act, the claimant had not made discovery or was not in diligent prosecution of work leading to discovery, and does not continue such work with diligence to discovery.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved: March 11, 1920.

ALEXANDER T. VOGELSANG,
Acting Secretary.

OIL AND GAS REGULATIONS—AMENDMENTS.

REGISTERS AND RECEIVERS, UNITED STATES LAND OFFICES.

SIRS: The regulations (Circular No. 672) approved March 11, 1920, for the administration of the oil and gas provisions of the act of February 25, 1920 (Public, No. 146), are hereby amended, modified, and supplemented as follows:

1. Section 1, paragraph (c), strike out the words:

provided that no stockholders are citizens of nonreciprocating countries as provided in section 1 of the act.

2. Section 4, paragraph (b), strike out the words:

and evidence that none of its stockholders are citizens of another country, the laws, customs, and regulations of which deny similar or like privileges to citizens or corporations of this country;

and substitute therefor the following:

and a showing as to the residence and citizenship of its stockholders.

3. Section 4, strike out paragraph (c) and substitute therefor the following:

(c) A statement that the applicant is not the holder of more than two other subsisting permits in the same State, nor of any permit in the same geologic structure, together with a statement of any other applications for permits in the same State, in which the applicant is directly or indirectly interested. In this connection attention is directed to the limitations and exceptions of section 27 of the act.

4. Section 12, the first paragraph is modified and amended to read as follows:

Preference right to owner of surface.—A preference right to a permit is given to an owner or entryman of the land with a reservation of the oil deposits to the United States, under the following conditions: (a) The land must have been withdrawn or classified as oil or gas lands; (b) entry must have been bona fide and made prior to such withdrawal or classification, and prior to the date of the act; (c) in case of an assignment, same must have been prior to January 1, 1918; (d) the land must not be claimed under any railroad grant.

5. Section 15, paragraph (a), strike out the words:

and evidence that none of its stockholders are citizens of another country, the laws, customs, and regulations of which deny similar or like privileges to citizens or corporations of this country.

and substitute therefor the following:

and a showing as to the residence and citizenship of its stockholders.

6. Section 17 of regulations, section 2 of lease form, paragraph (d), is amended to read as follows:

(d) Sales contract.—To file with the Secretary of the Interior copies of all sales contracts for the disposition of oil and gas produced hereunder except for production purposes on the land leased, and in the event the United States shall elect to take its royalties in money instead of in oil or gas, not to sell or otherwise dispose of the products of the land leased except in accordance with a sales contract or other method first approved by the Secretary of the Interior.

7. Section 17 of regulations, section 2 of the lease form, paragraph (f), is amended to read as follows:

(f) Plats and reports.—To furnish annually and at such other times as the Secretary shall require, in the manner and form prescribed by the Secretary of the Interior, a plat showing all development work and improvements on the leased lands, and other related information, with a report as to all buildings, structures, or other works placed in or upon said leased lands, accompanied by a report in detail as to the stockholders, investment, depreciation, and cost of operation, together with a statement as to the amount and grade of oil and gas produced and sold, and the amount received therefor, by operations hereunder.

8. Section 18, strike out paragraph (c) and substitute therefor the following:

(c) That no claimant who has acquired any interest in the land since September 1, 1919, from another claimant who, on that date or since that time, was or is claiming or holding more than the maximum allowed a claimant under section 18 of the act, may secure a lease under section 18, or any interest therein. This limitation does not, however, apply to an exchange of an interest in such lands made prior to January 1, 1920, which did not increase or reduce the area or acreage held or claimed in excess of the maximum by either party to the exchange.

9. Section 18, paragraph (e) substitute the word "asserted" for the word "initiated."

10. Section 18, strike out paragraph (g).

11. Section 19, paragraph (c) (Royalties), is modified and amended to read as follows:

(c) Royalties.—The royalties payable under leases granted pursuant to section 18 of the act are cumulative, and are hereby determined and prescribed as follows:

“For all oil produced of 30 degrees Baumé or over upon each claim on which the wells average not exceeding 20 barrels per day for the calendar month, $12\frac{1}{2}$ per cent; upon each claim on which the wells average more than 20 barrels and not more than 50 barrels per day for the calendar month, $16\frac{2}{3}$ per cent; upon each claim on which the wells average more than 50 barrels and not more than 100 barrels per day for the calendar month, 20 per cent; upon each claim on which the wells average more than 100 barrels per day for the calendar month, 25 per cent.

For all oil produced of less than 30 degrees Baumé upon each claim on which the wells average not exceeding 20 barrels per day for the calendar month, $12\frac{1}{2}$ per cent; upon each claim on which the wells average more than 20 barrels and not more than 50 barrels per day for the calendar month, $14\frac{2}{3}$ per cent; upon each claim on which the wells average more than 50 barrels and not more than 100 barrels per day for the calendar month, $16\frac{2}{3}$ per cent; upon each claim on which the wells average more than 100 barrels per day for the calendar month, 20 per cent.

Only wells which have a commercial production during at least a part of the month shall be considered in ascertaining the average production herein, and the Secretary of the Interior shall determine what are commercially productive wells under this provision.

The royalties on gas produced, if any, will be fixed and determined in each lease.

12. Section 20, strike out paragraph (f).

13. Section 21, paragraph (a), strike out the words:

Only one permit for not exceeding 2,560 acres will be granted to the same person, association, or corporation; hence all claims for relief in the form of a permit should be embraced in a single application.

14. Section 25, paragraph (h), strike out the words:

The statement of sales should be corroborated by the purchasers.

15. Section 25, strike out paragraph (i), and substitute therefor the following:

(i) Inspection of records.—The agreement on the part of the applicant to permit the inspection of any and all books, records, and accounts having any bearing on the data or information required by the application and to furnish copies or abstracts of such books, records, or accounts, on demand.

16. Section 25, paragraph (k), is modified and amended to read as follows:

(k) Limitation of area.—Applications for lease under section 18 of the act should disclose all other applications, in which the applicant is directly or indirectly interested, for lease under said section for lands (describing same) in the same geologic structure; and applications under section 22 of the act should show all other applications for leases or permits under said section. The boundaries of the geologic structures of the various producing fields will be determined and announced by the United States Geological Survey under supervision of the Secretary of the Interior, and such information will be placed on file in all United States land offices.

17. Section 27, in the form of notice there set out, strike out the following words: “together with an application.”

18. Section 28, paragraph (a) add the following words: “, on or before August 25, 1920.”

19. The following form of bond is prescribed for use in compliance with the requirements of paragraph (i), section 4 of the regulations and paragraph 7 of the form of permit shown in section 6 of the regulations:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.

U. S. Land Office——
Serial Number——

BOND OF OIL AND GAS PERMITTEE.

Act of February 25, 1920 (Public No. 146).

KNOW ALL MEN BY THESE PRESENTS, That we, _____, of the county of _____, in the State of _____, as principal, and _____ of the county of _____, in the

State of _____, as surety, are held and firmly bound unto the United States of America in the sum of _____ dollars, lawful money of the United States to be paid to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators or successors, and assigns, jointly and severally by these presents.

Signed with our hands and sealed with our seals this — day of — in the year
of our Lord one thousand nine hundred and —.

The condition of the foregoing obligation is such that, whereas the said principal has made application under the act of February 25, 1920 (Public No. 146), for a permit to prospect for oil and gas for two years upon the following described lands-----

and whereas said permit, if granted, will be on condition that all operations shall be conducted in accordance with approved methods; that all proper precautions shall be exercised to prevent waste of oil or gas developed in the lands, or the entrance of water through wells drilled by, or on behalf of, the principal to the oil sands or oil-bearing strata to the destruction of the oil deposits.

NOW THEREFORE, if said principal shall promptly repair any damage that may result to the oil strata or deposits resulting from improper methods of operation, or from failure to comply fully with the aforesaid conditions of said permit, then the above obligation is to be void and of no effect; otherwise to remain in full force and virtue.

NOW THEREFORE, if said principal shall promptly repair any damage that may result to the oil strata or deposits resulting from improper methods of operation, or from failure to comply fully with the aforesaid conditions of said permit, then the above obligation is to be void and of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered in presence of—

Name and address of witness:

-----[L. S.]
Principal.

Principal.

-----[L. s.]
Surety.

Surety.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved March 25, 1920.

JOHN BARTON PAYNE,
Secretary.

OPERATING REGULATIONS.

UNDER THE ACT OF FEBRUARY 25, 1920 (PUBLIC NO. 146).

DEFINITIONS.

The following terms used in these regulations shall have the meanings here given, namely :

Supervisor.—The agent appointed by and acting for the Secretary of the Interior to supervise all operations for the discovery or production of oil and gas under these regulations.

Deputy supervisor.—Any person appointed by the Secretary of the Interior to supervise, under the direction of the supervisor, operations for the discovery or production of oil and gas under these regulations.

Lessee.—Any person, firm, corporation, or municipality to whom a permit or lease for the discovery or production of oil and gas is issued under the act of February 25, 1920.

Leased lands, leased premises, or leased tract.—Any lands or deposits occupied under permit or lease granted in accordance with the act of February 25, 1920, for the discovery or production of oil or gas.

POWERS AND DUTY OF SUPERVISOR.

It shall be the duty of the supervisor and his deputies—

1. To visit from time to time leased lands where operations for the discovery or production of oil and gas are conducted, to inspect and supervise such operations with a view to preventing waste of oil and gas, damage to formations or deposits containing oil, gas, or water or to coal measures or other mineral deposits, injury to life or property, or economic waste; and to issue, in accordance with the provisions of the lease and these regulations, such necessary instructions to lessees as will effectively prevent waste or damage to deposits containing oil, gas, water, or other minerals or injury to life or property.

2. To make reports to the Secretary of the Interior as to the general condition of the leased property and the manner in which operations are being conducted and his orders are being complied with, and to submit from time to time information and recommendations for safeguarding and protecting the property and the underlying mineral-bearing formations.

3. To prescribe, subject to the approval of the Secretary of the Interior, the manner and form in which all records of operations, reports, and notices shall be made.

4. To require that tests shall be made to detect waste of oil or gas or the presence of oil, gas, or water in a well and to prescribe or approve the methods of making such tests.

5. To require the correction, in a manner to be prescribed or approved by him, of any condition existing subsequent to the completion of a well which is causing or is likely to cause damage to any formation bearing oil, gas, or water, or to coal measures or other mineral deposits, or which is dangerous to life or property or wasteful of oil or gas.

DUTIES OF LESSEES.

6. The lessee shall conform to the terms of the lease and regulations and to the written instructions of the supervisor and shall use all reasonable precautions, in accordance with the most approved methods, to prevent waste of oil or gas, damage to formations or deposits bearing oil, gas, or water or to coal measures or other mineral deposits, injury to life or property, or economic waste.

7. The lessee shall designate in writing a local or resident representative for each permit or lease or for each group of permits or leases he holds and shall give the local post-office address of such resident representative, on whom the supervisor or other authorized representative of the Department of the Interior may serve notice or with whom he may otherwise communicate in securing compliance with these regulations. The resident representative of the lessee of lands not yet drilled shall be designated before drilling or other operations are begun; the resident representative of the lessee of lands on which such operations were begun prior to the approval of these regulations shall be designated within thirty days after their approval.

If said designated local or resident representative shall at any time be incapacitated for duty or absent from his residence as given in the address furnished, the lessee shall designate in writing some person to serve in his stead, and in the absence of such representative and of written notice of the appointment of a substitute, any employee of the lessee who is on the leased premises, or the contractor or other person in charge of the drilling, shall be considered the representative of the lessee for the service of orders or notices as herein provided, and service upon any such employee, contractor, or other person shall be deemed service upon the lessee.

8. The lessee shall not begin to drill, redrill, deepen, plug, or abandon any well or alter the casing in it without first notifying the supervisor or his deputy of his plan or intention.

9. The lessee shall keep on the leased premises or at his headquarters in the field accurate records of the drilling, redrilling, deepening, plugging, or abandoning of all wells and of all alterations of casing, the records to show all the formations drilled through and their content of oil, gas, or water, if any, and the kinds, length, and sizes of casings used in drilling the wells; and copies of such records shall be transmitted to the supervisor by the lessee within fifteen days after the first completion of any well or after the completion of any further operations on it. The lessee shall also submit to the supervisor such other reports and records of operations as may be required, in the manner and form prescribed by the supervisor.

10. The lessee shall permanently mark all rigs or wells in a conspicuous place with his name and the number or designation of the well and shall take all necessary means of precautions to preserve these markings.

11. If the lessee shall fail to plug properly any dry or abandoned well the supervisor, after giving thirty days' notice to the parties in interest, may plug such well at the expense of the lessee or his surety.

12. The lessee shall recover all oil in B. S. or emulsion and put it into marketable condition if it can be recovered at a profit. If the formation of B. S. or emulsion is not preventable and the oil can not be recovered by the usual modes of treatment, the cost of putting the oil into marketable condition by any unusual mode of treatment shall first be deducted from the amount received for it before royalty is computed.

13. The lessee shall make a full report to the supervisor of all accidents or fires on the leased premises.

REGULATIONS RELATIVE TO GAGING OIL.

14. The lessee shall provide tanks suitable for containing and accurately measuring the crude oil produced from the wells, and shall furnish to the supervisor accurate copies of all tank tables and all run tickets as and when requested. The lessee shall not, except during an emergency, permit oil to be stored or retained in earthen reservoirs or in any other receptacle in which there may be undue waste of oil by seepage or evaporation. If the lessor elects to take its royalty in oil it shall give the lessee ninety days notice thereof in advance. The lessee shall furnish storage for such royalty oil free of charge for thirty days after the end of the calendar month in which such oil is produced, the oil to be stored on the leased premises or at such place as the lessor and the lessee may mutually agree upon.

MEASUREMENT OF NATURAL GAS.

15. All gas subject to royalty shall be measured by meters approved by the supervisor and installed at the expense of the lessee at such places as may be determined by the supervisor or his deputy. The standard of pressure in all measurements of gas sold or subject to royalty shall be 10 ounces above atmospheric pressure, and the standard of temperature shall be 60° Fahrenheit, and all measurements of gas shall be reduced by computation to these standards, no matter what may have been the pressure and temperature at which the gas was actually measured.

METHODS OF COMPUTING VALUE OF CASING-HEAD GAS.

16. For computing the royalties provided for in the lease the value of all casing-head gas produced shall be assumed to be one-third of the value of the marketable casing-head gasoline extracted from such gas, but if the lessee receives a higher price for casing-head gas than the equivalent of one-third of the value of the casing-head gasoline manufactured from such gas the royalties shall be computed on that price. (Amended. See p. 39.)

17. For computing royalties the gasoline content of all casing-head gas produced at any plant during any month shall be determined by dividing the total quantity of marketable casing-head gasoline produced during that month (after deducting all naphtha or other materials used for blending products) by the quantity of casing-head gas used in the plant during the month, as shown by meters. If the gasoline plant on the leased premises obtains casing-head gas both from those premises and from other sources, or if casing-head gas is sold or transported from the leased premises to plants not on the leased premises, the gasoline content of the gas shall be determined by field tests made under the supervision of the supervisor or his deputy, and, if they are deemed necessary or desirable, tests shall be made of all casing-head gas used in any such plant in order to determine whether the field tests of the gas produced from the leased premises shows as great a gasoline content as is shown by the casing-head gasoline marketed in the actual operations of the plant; and after such tests have been made the supervisor or his deputy shall determine the gasoline content of the gas produced from the leased premises.

ENFORCEMENT OF ORDERS.

18. If the lessee fails to comply with these regulations or any part thereof or with the order or orders of the supervisor or his deputy, the supervisor or his deputy shall have authority to require him to suspend the operation or practice that conflicts with the regulations or orders or the use of any device that the supervisor or his deputy may consider wasteful or improper. This order of suspension shall remain in force until the lessee complies with the regulations or orders that have been violated or until such order of suspension has been revoked by the Secretary of the Interior, provided, that when the continuance of such operation or practice, or of the use of the device considered wasteful or improper, does not threaten immediate, serious, and irreparable damage to oil or gas or other valuable mineral deposits, the supervisor shall temporarily waive compliance with such order of suspension pending an appeal to and a review by the Secretary of the Interior of such order, upon the lessee's lodging with the supervisor a surety bond or depositing in escrow cash or United States Liberty bonds in a fixed sum, the forfeiture of the amount of the bond or deposit to be conditioned upon compliance with the order or orders of the supervisor if such order or orders are not revoked by the Secretary of the Interior. Such appeal must be made within ten days from the issuance of the order, and the Secretary of the Interior shall pass upon the appeal as soon thereafter as possible and shall return the bonds or the sum deposited, or make such disposition of it as the law, regulations, and facts may warrant.

APPEAL TO THE SECRETARY.

19. The lessee must immediately obey all orders of the supervisor or his deputy except as hereinbefore provided, but any order shall be subject to

review by the Secretary of the Interior upon appeal filed by the lessee within thirty days after it has been served.

The administration of these regulations shall be under the direction of the Bureau of Mines.

JOHN BARTON PAYNE,
Secretary.

AMENDMENT.

DECEMBER 20, 1920.

The operating regulations governing the production of oil and gas are amended by adding after section 16 thereof the following:

SEC. 16(a). In view of the extra cost of transportation and operation of casing-head gasoline plants in Wyoming and Montana, due to climatic conditions and other natural factors; for computing the royalties provided for in the lease, the value of all casing-head gas produced from leases in said States shall be assumed to be one-fifth of the value of the marketable casing-head gasoline extracted from such gas, but if the lessee receives a higher price for casing-head gas than the equivalent of one-fifth of the value of the casing-head gasoline manufactured from such gas, the royalties shall be computed on that price. This basis of computation shall continue until January 1, 1923, after which date the one-third rate, as written in section 16 of the operating regulations, shall automatically become effective unless the Secretary of the Interior shall at that time see fit to extend or modify this regulation.

ALABAMA.

CONTENTS.

Pipe-line companies-----	Page. 40
Assessment and taxation-----	40

PIPE-LINE COMPANIES.

ASSESSMENT AND TAXATION.

GENERAL ACTS 1915, 386, p. 440. SEPTEMBER 14, 1915.

AN ACT to provide for the assessment, valuation and equalization of values of real and personal property for taxation, and for this purpose to create a State board of equalization, to prescribe the powers and duties of said board, to create a board of equalization for each county, and to prescribe the powers and duties of said boards, to provide for the collection of taxes, the sale of property for taxes, the redemption from such sales, to further provide for the general revenues, abolish the State tax commission, and to transfer all its powers, authority and jurisdiction, and all proceedings pending for assessment and collection of taxes, and to repeal all laws in conflict with this act.

Be it enacted, etc.:

* * * * *
SEC. 122. Each such statement shall show the following items and particulars as the same stood on the next preceding first day of October, together with any other facts or information that may be called for by said board of equalization. * * *

11. Every * * * pipe line company, shall show in each statement made by it the following particulars, which are in addition to the foregoing requirements, to-wit: (a) The total length of all the lines of said company, whether within or outside of this State, and (b) the total length of so much of said lines as are within this State, and (c) the length of its lines in each of the counties and cities or towns of this State into or through which its lines extend. * * *

* * * * *
SEC. 128. Where the person, association, company or corporation operates a * * * pipe line, the lines of which extend beyond the State, there shall also be deducted from the true cash value of the entire property, tangible and intangible, ascertained as above provided, the market or true value, ascertained from the information furnished by said statements, if the value thereof be given in said statements, of all real and personal property of said person, association, company or corporation not specifically used in its business, and the remainder shall be treated as the true cash value of all its property, tangible and intangible, actually used in this business. The State board of equalization shall then ascertain and fix the value of the total property, tangible and intangible, in this State by taking such proportion of the cash value of the entire property, tangible and intangible, of such persons, association, company or corporation which is specifically used in its business, ascertained as provided by this act, as its total lines within this State bears to the total lines both inside and outside of this State, or as its total receipts from within this State, bears to its total receipts from both within and without this State. From the entire value of the property within this State, tangible and intangible when ascertained as above provided, there shall be deducted the total va'

of the entire real and personal property of said person, association, company or corporation in this State, and sixty per cent of the residue and remainder of the value shall be by said State board of equalization fixed and determined as the true value for taxation of the franchise or intangible property of such person, association, company, or corporation so operating said * * * pipe line made subject to taxation by the provisions of this act.

SEC. 129. The State board of equalization shall apportion the value of such franchises or intangible property thus ascertained as in this act provided, among and between the counties and cities or towns in which such persons, association, company, or corporation does business, in proportion to the amount of business done in and receipts derived from each locality, except that in a case of a * * * pipe line, the apportionment to each county and to each city or town shall be in proportion to the line mileage of car mileage therein.

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ARIZONA.

CONTENTS.

	Page.
Oil-----	42
Development—Resolution-----	42
Pipe line-----	42
Right of way—Condemnation of land-----	42
Public-service corporations-----	43
Corporation commission—Creation—Powers and duties-----	43

OIL.

DEVELOPMENT—RESOLUTION.

LAWS 1913, P. 89.

JUNE 15, 1913.

SENATE MEMORIAL NO. 4.

To the Honorables Marcus A. Smith and Henry F. Ashurst, United States Senators:

Your memorialist, the Senate of the third Legislature of the State of Arizona, in special session convened, respectfully represents:

That one of the most essential sources of economic development and its resultant communal prosperity is the production of a fuel supply;

That indications point to the location of vast oil fields in the State of Arizona;

That the development of these Arizona oil fields will be facilitated, if not dependent, on the successful adoption of the provision in Senate bill Number 2812, providing for the issuance of letters patent on six hundred and forty acres to the permittee who discovers oil;

That the adoption of the House bill provision allowing only a lease of such lands would tend to discourage the investment of the necessary capital;

Therefore, your memorialist earnestly urges upon you the necessity of supporting the Senate bill now before the Senate of the United States, in order to further the development and prosperity of the people of the State of Arizona.

Resolved, That a copy of this memorial be forwarded to the United States Senators from Arizona.

PIPE LINE.

RIGHT OF WAY—CONDEMNATION OF LAND.

REVISED STATUTES, 1913, P. 1028.

TITLE XIII.

(Chapter 27, Laws 1913—3d special session.)

EMINENT DOMAIN.

3071. Eminent domain is the right of the people or government to take private property for public use. This right may be exercised in the manner provided for in this title.

3072. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following uses: * * *

(8) A pipe line or pipe lines for the purpose of carrying petroleum, petroleum products, or any other liquid. * * *

* * * * *

PUBLIC SERVICE CORPORATIONS.

CORPORATION COMMISSION—CREATION—POWERS AND DUTIES.

REVISED STATUTES 1913, P. 780.

CHAPTER XI.

PUBLIC SERVICE CORPORATIONS AND CORPORATION COMMISSION.

2277. This chapter shall be known as the "Public Service Corporation Act" and shall apply to the public service corporations herein described and to the commission herein referred to.

2278. (a) The term "Commission," when used in this chapter means the Corporation Commission of the State of Arizona.

(b) The term "Commissioner," when used in this chapter, means one of the members of the Commission.

(c) The term "Corporation" when used in this chapter, includes a corporation, a company, an association, and a joint stock association. * * *

(l) The term "Common carrier," when used in this chapter, includes every * * * oil * * * car * * * and every other car corporation, or person; * * * or pipe line corporation; for the transportation of * * * oil, or other property, for profit, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this State.

(m) The term "Pipe line," when used in this chapter, includes all real estate, fixtures, and personal property, owned, controlled, operated or managed, in connection with or to facilitate the transmission, storage, distribution, or delivery, of crude oil, or other fluid substance, except water, through pipe lines; in furnishing hot or cold air or steam for heating or cooling purposes.

(n) The term "Pipe line corporation," when used in this chapter, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing, any pipe line for compensation within this State.

(o) The term "Gas plant," when used in this chapter, includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed, in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas (natural or manufactured) for light, heat, or power.

(p) The term "Gas corporation," when used in this chapter, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing, any gas plant for compensation within this state, except where gas is made or produced on, and distributed by the maker or producer through, private property alone solely for his own use or the use of his tenants, and not for sale to others. * * *

(z) The term "Public service corporation," when used in this chapter, includes every common carrier, pipe line corporation, gas corporation, * * * as these terms are defined in this section, and each thereof is hereby declared to be a public service corporation and to be subject to the jurisdiction, control, and regulation of the commission and to the provisions of this chapter.

2279. (a) The corporation commission shall consist of three members. * * *

* * * *

2289. (a) All charges made, demanded or received by any public service corporation, or by any two or more public service corporations, for any product or commodity furnished or to be furnished, or any service rendered or to be rendered, shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful.

(b) Every public service corporation shall furnish, provide, and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.

(c) All rules and regulations made by a public service corporation affecting or pertaining to its charges or service to the public shall be just and reasonable.

* * * *

2291. Unless the commission otherwise orders, no change shall be made by any public service corporation in any rate, fare, toll, rental, charge, or classification, or in any rule, regulation, or contract relating to or affecting any rate, toll, fare, rental, charge, classification, or service, or in any privilege or facility, except after thirty days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty days' notice herein provided for, by an order, specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. * * *

* * * *

2294. Every common carrier * * * shall print and file or cause to be filed with the commission schedules showing all the rates, fares, tolls, rentals, charges, and classifications for the transportation of persons or property * * * between all points within this State and all points without the State upon its route, and between all points within this State and all points without the State upon every route leased, operated or controlled by it, and between all points on its route or any route, leased, operated or controlled by it within this State and all points without the State upon the route of any other common carrier or telegraph or telephone corporation, whenever a through route and joint rate shall have been established between any two such points.

2295. No public service corporation shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public service corporation shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

* * * *

2298. Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage, and cars, loaded, or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall

make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. * * *

* * * * *

2304. (a) Every public service corporation shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations, computations and all other information required by it to carry into effect any of the provisions of this chapter, and shall make specific answers to all questions submitted by the commission. * * *

2305. Every public service corporation shall annually furnish to the commission at such time and in such form as the commission may require a report in which the public service corporation shall specifically answer all questions propounded by the commission upon or concerning which the commission may desire information. * * *

2306. Every public service corporation shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public service corporation, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

2307. The commission is hereby vested with power and jurisdiction to supervise and regulate every public service corporation in the State and to do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

* * * * *

ARKANSAS.

CONTENTS.

	Page.
Oil and gas.....	46
Lease—Lands of infants and insane.....	46
Oil and gas wells.....	47
Plugging—Regulating use of gas.....	47
Pipe-line companies.....	48
Incorporation fees.....	48
Rights of way—Condemnation of land.....	48
Taxation—Reports.....	49

OIL AND GAS.

LEASE—LANDS OF INFANTS AND INSANE.

LAWS 1917, P. 679 (VOL. 1).

FEBRUARY 23, 1917.

ACT 127.

AN ACT to amend Act No. 227 of the Acts of 1913 authorizing the leasing of lands of minors for oil and gas purposes, and authorizing the leasing of lands of lunatics and persons of unsound mind for oil and gas purposes.

Be it enacted, etc.:

SEC. 1. That Section 1 of Act No. 227 of the Acts of 1913, be and the same is hereby amended to read as follows:

SEC. 2. When a nonresident minor, or lunatic, or person of unsound mind, incapable of conducting his own affairs, owns real property in this State and has a guardian or curator in the State where he resides, the court of probate of the county where such lands, or the greater part thereof are situated, may authorize such guardian or curator to lease said lands, or any part thereof, for the production of oil or gas upon securing an order from the probate court and complying with the terms and provisions of this Act.

SEC. 3. That Section 2 of the aforesaid Act be and the same is hereby amended so as to read as follows: .

“To obtain such order, the guardian or curator shall present to the court a petition setting forth the condition of the lands and the facts and circumstances on which the petition is founded.”

SEC. 4. That Section 3 of the aforesaid Act be and the same is hereby amended so as to read as follows:

“If, after a full examination on oath of credible and disinterested witnesses, it appears to the court that it would be for the benefit of the minor, or lunatic, or person of unsound mind, that the lands, or any part of them, should be leased for such purposes, the court may make an order for such lease, under such regulations and conditions as to the term of the laws and the amount of royalty to be paid by the lessee as the court may consider suited to the case, first requiring the guardian or curator to enter into good and sufficient bond to make such lease with fidelity to the interest of his ward, and faithfully to account for the proceeds of such royalties and other

consideration derived from such lease according to law and as the order of the court may require.”

SEC. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

SEC. 6. This Act, being necessary for the immediate preservation of the public peace, health and safety an emergency is declared, and it shall take effect from and after its passage.

OIL AND GAS WELLS.

PLUGGING—REGULATING USE OF GAS.

DIGEST OF STATUTES (KIRBY & CASTLE), 1916, P. 614.

XXXVII. GAS AND OIL WELLS TO BE PLUGGED.

SEC. 1863. Whenever any well shall have been sunk for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom, it shall be the duty of any person, firm or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also of the owner, or owners, of the land wherein such well is situated, to stop and plug the same, properly and securely, as follows: There shall be placed in the bottom of the hole thereof a plug of well-seasoned pine wood, the diameter of which shall be within one-half inch as great as the hole of such well, to extend at least three feet above the water level, where water has been struck; where no water has been struck, such plug shall extend at least three feet from the bottom of the well. In both cases, such wooden plugs shall be thoroughly rammed down and made tight by the use of drilling tools. After such ramming and tightening, the hole of such well shall be filled on top of such plug with finely broken stone or sand, which shall be rammed to a point at least four feet above the nearest sandstone or limestone, or any other gas or oil-bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five feet long with diameter the same as the plug aforesaid, which shall be thoroughly rammed and tightened.

SEC. 1864. Any person violating any provision of section 1 of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than twenty dollars nor more than two hundred (dollars), or be imprisoned in the county jail not less than ten days nor more than sixty days, or suffer both such fine and imprisonment; and each day during which such violation shall continue shall constitute a separate offense.

SEC. 1865. It is hereby declared to be unlawful for any person or persons to set on fire any gas escaping from wells or from wells or from broken or leaking mains, pipes, valves, or other appliances, used by any person, company or corporation in conveying gas to consumers, or to tap any pipe or main for the purpose of taking and stealing gas therefrom, or to interfere in any manner with wells, pipes, mains, gate boxes, valves, stopcocks or other appliances, machinery or other property of any person, company or corporation engaged in furnishing gas to consumers, unless employed by, and acting under, the authority and direction of such person, company or corporation furnishing gas to consumers.

SEC. 1866. It is hereby declared to be unlawful for any person, in any manner whatever, to change, extend or alter, or to cause to be changed, extended or altered, any service or other pipe or attachment of any kind, by or through

which natural or artificial gas is furnished from the gas mains or pipes of any person, company or corporation without first securing from said person, company or corporation written permission to make such change, extension or alteration.

SEC. 1867. Any person violating any provision of sections 1865 and 1866 of this Act shall, upon conviction, be fined in any sum not less than five dollars nor more than one hundred dollars for such offense. (Act May 6, 1905, p. 635.)

PIPE LINE COMPANIES.

INCORPORATION FEES.

RIGHTS OF WAY—CONDEMNATION OF LAND.

TAXATION—REPORTS.

INCORPORATION FEES.

DIGEST OF STATUTES (KIRBY & CASTLE), 1916, P. 424.

CHAPTER 31.

III. FEES OF DOMESTIC CORPORATIONS.

SEC. 979. All corporations organized under the laws of this State, except such corporations as are hereafter specifically mentioned, shall pay for the filing of its articles of incorporation a fee of twenty-five dollars for the first ten thousand dollars, or under, of its authorized capital stock, and one-tenth of one per cent additional on all amounts in excess of ten thousand dollars; and shall pay for any increase of its capital stock twenty-five dollars on the first ten thousand dollars, or less, and one-tenth of one per cent additional on all amounts in excess of ten thousand dollars.

SEC. 980. All * * * pipe line companies, organized under the laws of this State shall pay to the State treasurer the following incorporation fees:

One dollar per mile for each mile proposed to be constructed. * * * (Act March 8, 1911, p. 48.)

* * * * *

RIGHTS OF WAY—CONDEMNATION OF LAND.

DIGEST OF STATUTES (KIRBY & CASTLE), 1916, P. 871.

CHAPTER 61.

EMINENT DOMAIN.

SEC. 3239. Any corporation organized by virtue of the laws of this State, for the purpose of developing and producing mineral oil, or petroleum, or natural gas in this State, and marketing the same, or transporting or conveying the same by means of pipes from the point of production to any other point, either to refine or to market such oil, or to conduct such gas to any point or points to be used for heat or lights, may construct, operate, and maintain a line or lines of pipes for that purpose along and under the public highways and the streets of cities and towns, with the consent of the authorities thereof, or across and under the waters and over any lands of the State, and on the lands of individuals, and along, under, or parallel with the rights of way of railroads, and the turnpikes of this State; provided, that the ordinary use of such highways, turnpikes, and railroad rights of way be not obstructed thereby, or the

navigation of any waters impeded, and that such compensation be paid to the owners of such lands, railroad rights of way, or turnpike, by reason of the occupation of such lands, railroad rights of way, or turnpikes by said pipe line or lines.

SEC. 3240. In the event any such company shall fail upon application to individuals, railroads, or turnpike companies to secure such right of way by consent, contract, or agreement, then such corporation shall have the right to proceed to procure the condemnation of such property, lands, rights, privileges, and easements in the manner now provided by law for taking private property for right of way for railroads as provided by section 3284 to section 3295, inclusive.

SEC. 3241. Whenever any such corporation shall desire to construct such pipe line or lines upon or under the lands of individuals, or right of way of any railroad, or any turnpike, said corporation, by its agents, shall have the right to enter peacefully upon said lands or rights of way and survey, locate, and lay out its said pipe lines thereon, being liable, however, for any damage that may result by reason of such acts, and shall designate on a plat or map to be made and filed with the county clerk of the county, the width of the strip of land needed to be condemned for its purposes, its location, and the depth to which such pipes are to be laid.

SEC. 3242. Any person or persons who shall injure or molest any such pipe or pipes so used for the transportation of such oil or gas shall be guilty of a misdemeanor, and on conviction be fined in any sum not to exceed two hundred dollars; but should such injury be done wilfully, and be of such a character as to cause such pipes to be so damaged that such oil or gas shall escape and cause damage either to the company or individuals or other corporations, then such person or persons shall be guilty of felony, and on conviction thereof shall be fined not to exceed one thousand dollars and confined in the penitentiary not more than five years. (Act May 2, 1905, p. 577.)

TAXATION—REPORTS.

DIGEST OF STATUTES (KIRBY & CASTLE), 1916, P. 1979.

CHAPTER 153.

REVENUE.

* * * * *

SEC. 8554. For the purposes of assessment and taxation any person or any corporation whenever organized and incorporated, engaged in the business of transmitting * * * oil or gas in pipe lines through or in this State, or owning pipe or pipe lines for such purposes in this State shall be deemed to be a pipe line company. * * * Such companies shall be assessed for taxation by the Arkansas tax commission.

SEC. 8555. It is made the duty of every * * * pipe line company, wherever organized or incorporated, and carrying on a business in this State, on the first Monday in July, every year, to make out and file with the Arkansas tax commission a statement showing in detail the following:

1st. A certified copy of the articles of incorporation, under which the company is organized and is carrying on business; said copy to be filed but once unless the commission should otherwise direct.

2nd. The amount of capital stock subscribed, whether designated as common or preferred, or by any other description, showing the par value of each share and the market value thereof on the first Monday in June of said year.

3rd. The face value of all bonds, secured by mortgages on the company's property, outstanding and the market or actual value of such bonds.

4th. * * * the total number of miles of pipe lines owned or operated within and without this State by any such pipe line company in the transaction of its business.

5th. * * * the total number of miles of pipe line owned or operated in this State by any such pipe line company.

SEC. 8556. The information provided for in section 8555 shall be made upon such forms as may be prescribed by the Arkansas tax commission. The statements contained in such certificates shall be sworn to by the general officer of the corporation, whose service therein makes it his duty to be personally informed with respect to the matters to be included in such certificate. False swearing in making any of the statements required to be set forth in said certificate is hereby declared to be perjury and shall be punished as such. If the commission shall have reason to believe that any statement contained in such certificate filed with it is false in any material matter it is hereby made its duty to procure other information about the matters to be contained in such certificate. The commission shall have power and it is hereby made its duty to resort to other sources of information in the event any such corporation shall fail or neglect or refuse to file the certificate aforesaid.

SEC. 8557. The aggregate, actual or market value, as the case may be, of all outstanding stocks and bonds of the corporation, as called for in paragraphs 2 and 3 of section 8554 shall be deemed to be the total value of each such corporation's property within and without this State, and the commission shall fix the total value of the corporation's property at such sum unless it can be shown that the same is not the total value of such property.

* * * in case of any pipe lines company, the commission shall take the same proportion of the aggregate value of the entire property within and without this State, as determined by this Act, of such corporation as the number of miles employed in this State bears to the total number of miles employed by such company. The assessment herein provided for shall include the office fixtures, teams, wagons and other apparatus of such companies.

* * * * *

SEC. 8559. The Arkansas Tax Commission shall on or before the fifteenth of May of each year, notify each person or * * * pipe line company, as provided by section 8554, that the statements and schedules required by sections 8555, 8556, and 8560 are required to be filed by the first day of July next ensuing. Said notice shall be printed or written, and it shall be served by delivering the same to any agent of such * * * company, or by depositing the same in any post office, addressed to such person or corporation at a point where the general office of such company is established, or at any city or town where such company is transacting business or has a station or office. Failure to receive the notice herein provided shall not be a defense for not making and filing the schedules by this act required within the time required to be made.

* * * * *

CALIFORNIA.

CONTENTS.

	Page.
Oil and gas-----	51
Proof of custom-----	51
Plugging oil wells-----	51
Waste of natural gas prevented-----	52
Pipe lines-----	52
State mining bureau—Protection of by-----	53

OIL AND GAS.

PROOF OF CUSTOM.

LAWS 1865–1866, P. 286; MAR. 17, 1866. (GENERAL LAWS 1864–71. SEC. 9080.)

An ACT to provide for the better protection of the petroleum mining interests of this State.

The People, etc.

SEC. 1. In actions respecting petroleum mining claims, proof shall be admitted of the customs, usages, regulations, or local laws established and in force in the petroleum mining district embracing such claim; and such customs, usages, regulations, or local laws, when not in conflict with the constitution and laws of this State, shall govern the decisions of the action.

SEC. 2. This act shall take effect and be in force from and after its passage.

PLUGGING OIL WELLS.

LAWS 1903, P. 399.

MARCH 24, 1903.

AN ACT to prevent injury to oil or petroleum bearing strata or formations by the infiltration or intrusion of water therein.

The People, etc.

SEC. 1. It shall be the duty of the owner of any well that may be drilled in the State of California on lands producing or containing oil or petroleum, to properly case such well with metal casing, in accordance with the best approved methods, landing the casing in the clay or other water-impervious strata or formation immediately underlying the surface water-bearing sands or strata, and also to, if the well be drilled to a sufficient depth, land the casing in the clay or other water-impervious strata or formation underlying such oil or petroleum producing or bearing sands or strata, and effectually shut off all water overlying and underlying the oil or petroleum producing or bearing sands or strata, and effectually prevent any water from penetrating such oil or petroleum producing or bearing sands or strata.

SEC. 2. It shall be the duty of the owner of any well referred to in section 1 of this act, before abandoning same, to withdraw the casing therefrom and securely fill such well with clay, earth, or mortar, or other good and sufficient materials, used alone or in suitable combination and thoroughly packed and tamped in the well, to a point 100 feet above the upper oil or petroleum bearing or producing sand or strata, and while withdrawing the casing therefrom, and effectually shut off and exclude all water underlying and overlying such oil or petroleum bearing or producing sand or strata from penetrating such sand or strata.

SEC. 3. The term "owner" as herein used shall mean and include each and every person, persons, copartnership, partnership, association, or corporation owning, managing, operating, controlling, or possessing any well mentioned in sections 1 and 2 of this act, either as principal or principals, lessee or lessees of such principal or principals, and their and each of their employees; the term "oil or petroleum producing or bearing sand or strata" as herein used shall mean and include any bed, seam, or stratum of rock or sand or other material which contains, includes, or yields earth oil, rock oil, or petroleum oil or natural gas or either of them.

SEC. 4. Any violation of the provisions of this act shall be deemed a misdemeanor.

WASTE OF NATURAL GAS PREVENTED.

LAWS 1911, P. 499.

MARCH 25, 1911.

AN ACT prohibiting the unnecessary wasting of natural gas into the atmosphere; providing for the capping or otherwise closing of wells from which natural gas flows; and providing penalties for violating the provisions of this act.

The People, etc.

SEC. 1. All persons, firms, corporations and associations are hereby prohibited from willfully permitting any natural gas wastefully to escape into the atmosphere.

SEC. 2. All persons, firms, corporations or associations digging, drilling, excavating, constructing, or owning or controlling any well from which natural gas flows shall upon the abandonment of such well, cap or otherwise close the mouth of or entrance to the same in such a manner as to prevent the unnecessary or wasteful escape into the atmosphere of such natural gas. And no person, firm, corporation, or association owning or controlling land in which such well or wells are situated shall willfully permit natural gas flowing from such well or wells, wastefully or unnecessarily to escape into the atmosphere.

SEC. 3. Any person, firm, corporation, or association who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 4. For the purposes of this act each day during which natural gas shall be willfully allowed wastefully or unnecessarily to escape into the atmosphere shall be deemed a separate and distinct violation of this act.

SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 6. This act shall take effect immediately.

PIPE LINES.

LAWS 1911 (EXTRA SESSION), P. 18.

DECEMBER 23, 1911.

AN ACT to provide for the organization of the railroad commission, to define its powers and duties, and the rights, remedies, powers, and duties of public utilities, their officers, define its powers and duties, and the rights, remedies, of patrons of public utilities, and to provide penalties for offenses by public utilities, their officers, agents, and employees, and by other persons and corporations, etc. * * *

The People, etc.

SEC. 2. * * *

(m) The term "pipe line," when used in this act, includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in con-

nection with or to facilitate the transmission, storage, distribution, or delivery of crude oil or other fluid substances except water through pipe lines.

(n) The term "pipe line corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any pipe line for compensation within this State.

* * * * *

STATE MINING BUREAU—PROTECTION OF OIL AND GAS.

LAWS 1915, P. 1404.
LAWS 1917, P. 1586.
LAWS 1919, P. 1165.

JUNE 10, 1915.
JUNE 1, 1917.
MAY 25, 1919.

CHAPTER 718.

CHAPTER 759.

CHAPTER 536.

AN ACT establishing and creating a department of the State mining bureau for the protection of the natural resources of petroleum and gas from waste and destruction through improper operations in production; providing for the appointment of a State oil and gas supervisor; prescribing his duties and powers; fixing his compensation; providing for the appointment of deputies and employees; providing for their duties and compensation; providing for the inspection of petroleum and gas wells; requiring all persons operating petroleum and gas wells to make certain reports; providing procedure for arbitration of departmental rulings; creating a fund for the purposes of the act; providing for assessment of charges to be paid by operators and providing for the collection thereof; and making an appropriation for the purposes of this act.¹

The people of the State of California do enact as follows:

ESTABLISHMENT OF DEPARTMENT—APPOINTMENT OF SUPERVISOR.

SEC. 1. A separate department of the State mining bureau is hereby established and created, to be known as the department of petroleum and gas. Such department shall be under the general jurisdiction of the State mineralogist. He shall appoint a supervisor who shall be either a competent engineer or geologist experienced in the development and production of petroleum, or a competent oil operator, having had not less than five years' actual practical experience in California oil fields, and who shall be designated the "State oil and gas supervisor," and whose term of office shall be four years from the date of his appointment.

APPOINTMENT OF ASSISTANTS—COMPENSATION.

SEC. 2. For his services in the general supervision of said department, the State mineralogist shall receive as compensation one thousand four hundred dollars annually which shall be in addition to his compensation fixed in section two of the act of June 16, 1913, relating to the State mining bureau. The secretary of the State mining bureau shall receive for his services in connection with the department of petroleum and gas, a sum not to exceed six hundred dollars annually, which sum shall be in addition to his compensation paid from the funds of the State mining bureau.

The supervisor shall receive an annual salary of six thousand dollars, and shall be allowed his necessary traveling expenses. The State mineralogist may,

¹ The act here given combines the original Act of 1915 and the amendatory Acts of 1917 and 1919.

at the request of the State oil and gas supervisor, and subject to the civil service laws of the State, appoint one chief clerk at a salary of not to exceed one thousand eight hundred dollars annually; twelve office assistants or stenographers each at a salary not to exceed one thousand two hundred dollars annually; four geological draughtsmen each at a salary not to exceed one thousand five hundred dollars annually; four petroleum engineers each at a salary not to exceed two thousand four hundred dollars annually; twelve inspectors each at a salary not to exceed one thousand eight hundred dollars annually.

The additional salary herein authorized to be paid to the State mineralogist and the secretary of the State mining bureau and the salaries of the supervisor and of the deputies, clerks, stenographers, assistants and other employees, shall be paid out of the funds hereinafter provided for at the times and in the manner that salaries of other State officers and employees are paid.

DUTIES OF SUPERVISOR.

SEC. 3. It shall be the duty of the State oil and gas supervisor so to supervise the drilling, operation and maintenance and abandonment of petroleum or gas wells in the State of California, as to prevent, as far as possible, damage to underground petroleum and gas deposits from infiltrating water and other causes and loss of petroleum and natural gas.

APPOINTMENT OF DEPUTIES AND ATTORNEY.

SEC. 4. It shall be the duty of the State oil and gas supervisor to appoint one chief deputy and five field deputies, one for each of the districts hereinafter provided for, and prescribe their duties and fix their compensation, which shall not exceed four thousand dollars per annum for the chief deputy, and not to exceed three thousand six hundred dollars per annum for each field deputy. Such deputies shall serve during the pleasure of the supervisor. He shall also employ an attorney at a compensation not exceeding three thousand dollars per year, payable out of said fund. The supervisor and the deputies shall not be subject to the civil service act.

DUTIES OF DEPUTIES.

SEC. 5. The chief deputy appointed by the supervisor shall be a competent engineer or geologist experienced in the development and production of petroleum; and each field deputy shall be either a competent engineer or geologist, experienced in the development and production of petroleum, or shall be a competent and experienced oil operator, having had not less than five years' actual experience in the oil fields of the State of California. At the time any field deputy is appointed, notice of such appointment shall be transmitted in writing to the board of commissioners of the district for which said deputy is appointed, which field deputy shall maintain an office in the district for which he is appointed, convenient of access to the petroleum and gas operators therein. The office shall be open and the deputy shall be present at certain specified times, which shall be posted at such office.

SEC. 6. It shall be the duty of each deputy to collect all necessary information regarding the oil wells in the district, with a view to determining the presence and source of water in the oil sand, and to make all maps and other accessories necessary to determine the presence and source of water in the oil sands. This work shall be done with the view to advising the operators as to the best means of protecting the oil and gas sands, and with a view to

aiding the supervisor in ordering tests or repair work at wells. All such data shall be kept on file in the office of the deputy oil and gas supervisor of the respective district.

RECORDS AND THEIR USE.

SEC. 7. The records of any and all operators, when filed with the deputy supervisors as hereinafter provided, shall be open to inspection to those authorized in writing by such operators, to the State officers, and to the board of commissioners hereinafter provided for. Such records shall in no case other than those hereinafter and in this section provided, be available as evidence in court proceedings and no officer or employee or member of any board of commissioners shall be allowed to give testimony as to the contents of said records, except at such court proceedings as are hereinafter provided for in the review of the decision of the State oil and gas supervisor, or a board of commissioners, or in any proceedings initiated for the enforcement of an order of the supervisor, or any proceeding initiated for the enforcement of a lien created by this act, or any proceeding for the collection of the assessment levied under and pursuant to the provisions of this act or in criminal proceedings arising out of such records, or the statements upon which they are based.

ORDERS BY SUPERVISOR—AGENTS OF OPERATORS.

SEC. 8. It shall be the duty of the supervisor to order such tests or remedial work as in his judgment are necessary to protect the petroleum and gas deposits from damage by underground water, to the best interests of the neighboring property owners, and the public at large. The order shall be in written form, signed by the supervisor, and shall be served upon the owner of the well, or the local agent appointed by such owner, either personally or by mailing a copy of said order to the post-office address given at the time the local agent is designated, or if no such local agent has been designated, by mailing a copy of said order to the last known post-office address of said owner, or if the owner be unknown by posting a copy of said order in a conspicuous place upon the property, and publishing the same in some newspaper of general circulation throughout the county in which said well is located, once a week for two consecutive weeks. Said order shall specify the condition sought to be remedied and the work necessary to protect such deposits from damage from underground waters. For this purpose each operator or owner shall designate an agent, giving his post-office address, who resides within the county where the well or wells are located, upon whom all orders or notices provided for in this act may be served.

Whenever the supervisor or any deputy supervisor or inspector makes any written recommendation or gives any written direction concerning the drilling, testing, or other operation in any oil or gas well drilled, in process of drilling, or being abandoned, and the operator, owner, or representative of either, serves written notice, either personally or by mail, addressed to the supervisor or his deputy at his office in the district, requesting that a definite order be made upon such subject, the supervisor or his deputies shall, within five days after such notice, deliver a final written order on such subject matter in such manner and form that an appeal may be taken at once therefrom, to the board of oil and gas commissioners of the district created under this chapter.

REJECTION OF SUPERVISOR'S ORDERS—HEARING ON APPEAL.

SEC. 9. The well owner, or his or its local agent, may, within ten days from the date of the service of any order from the supervisor or his chief deputy or

field deputy, file with the supervisor or his deputy in the district where the property is located, a written statement that the order is not acceptable, and that appeal from said order is taken to the board of commissioners of said district under the provisions of this chapter. Such appeal shall operate as a stay of any order issued under or pursuant to the provisions of this act. Immediately upon the filing of such notice of appeal, the deputy supervisor of the district, as secretary ex officio of the board of oil and gas commissioners, shall immediately call a meeting of said commissioners to hear and pass upon said appeal. The hearing upon said appeal before said district board of oil and gas commissioners, shall be de novo and at such place in the district as the commissioners may designate, and within ten days from the taking of such appeal; five days' notice in writing shall be given to the appellant of the time and place of such hearing, and for good cause the commissioners may postpone such hearing on the application of appellant, or the State oil and gas supervisor, or the field deputy in said district, for not exceeding five days.

DISTRICTS, COMMISSIONERS, ELECTION, RECALL.

SEC. 10. For the purposes of this act, the State shall be divided into five districts, as follows:

District No. 1, including the counties of Los Angeles, Riverside, Orange, San Diego, Imperial, and San Bernardino.

District No. 2, the county of Ventura.

District No. 3, including the counties of Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Benito, Santa Clara, Contra Costa, San Mateo, Alameda, and San Francisco.

District No. 4, including the counties of Tulare, Inyo, and Kern.

District No. 5, including the counties of Fresno, Madera, Kings, Mono, Mariposa, Merced, and all other counties in California not included in any of said other districts.

There shall be elected, at the times and in the manner hereinafter provided, district oil and gas commissioners for each such districts, as follows: For district number one, five; for district number two, five; for district number three, five; for district number four, seven; for district number five, five.

Said district oil and gas commissioners shall be elected by vote of the companies, individuals, copartnerships or associations, who shall have been assessed, and whose names shall appear on the last record of assessments (next preceding such election) for and on account of the fund in this act provided to be raised, within said districts, respectively, said vote to be taken at a meeting to be held in each of said districts, respectively, and on the third Monday in September of each year, such place and the time and details of such meeting to be fixed by the State oil and gas supervisor, and of which meeting at least two weeks previous notice shall have been given by letter addressed to each of said persons, corporations, copartnerships and associations, entitled to vote as aforesaid, at his or its post office address or principal place of business.

At said meeting each of those entitled to vote as herein provided may be represented by one person holding the written authority of such voter to act for him at such meeting. At said meeting each voter shall be entitled to one vote for each member of the board of district oil and gas commissioners who are required to be selected for such district. In addition thereto, in each district in which five commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the two commissioners who are elected for three years; and in each district

in which seven commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which such voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the three commissioners who are elected for three years. In all subsequent elections the qualification of voters in the election of a commissioner shall be the same as in the election of the commissioner whose successor in office is being elected. Said meeting shall select by ballot, by a majority vote of the votes represented, the number of persons as hereinbefore specified to act as district oil and gas commissioners for such district. In any district entitled to seven commissioners, two shall be chosen for a term of one year, two for two years and three for three years. In any district entitled to five commissioners, one shall be chosen for a term of one year, two for two years and two for three years.

The chairman and secretary of the meeting shall issue a written certificate to the State oil and gas supervisor, setting forth the result of such election, and the name and address of each of the persons elected at said meeting as the district oil and gas commissioners for said district, and the term for which each has been elected. No person shall be eligible as a district oil and gas commissioner who is not a resident of the district for which he is elected, nor shall any person be eligible for such position who is not actually engaged in the business of oil or gas development or production within the district. Upon receipt of the certificate so made by the chairman and secretary of any such meeting, the State oil and gas supervisor shall issue a certificate of election to the respective persons in said district named as the district oil and gas commissioners for said district, and for the periods of one, two or three years from and after the first Monday in October, 1917, as shall be shown in such certificate, and until their respective successors shall have been elected.

Within thirty days after their appointment by the State oil and gas supervisor, the district oil and gas commissioners for each district shall meet at a time and place within the district to be designated by the State oil and gas supervisor, and shall thereupon select one of the number as chairman. The deputy supervisor of the district shall be ex officio secretary of said board, and shall keep a record of its proceedings, and his office shall be the office of the commissioners.

Each board of commissioners may appoint one of its number as assistant secretary who shall, in the absence of the secretary, keep the minutes of said board, and shall perform such further secretarial duties as the board, by resolution, may direct.

In case of any litigation in which any district board of oil and gas commissioners shall be a party, such board shall have full authority to employ a competent attorney for each such litigation, and to fix his compensation, either before or after his services shall be concluded, and said compensation shall, when certified by the chairman of said board and by the State board of control, be paid from the fund created by this chapter.

Said commissioners shall serve without compensation, except their necessary traveling expenses and other actual expenses incident to their office.

In case of any hearing upon appeal before any board of district oil and gas commissioners, they shall have authority to employ a competent stenographer to take the testimony and proceedings, and in case either party shall take proceedings in the superior court, by writ of certiorari, from any order or decision of such board, it shall cause the stenographer so employed to make a full transcript of the testimony and proceedings before said board of commissioners, and three copies in addition to the original thereof. The original and one copy

shall be for the use of said board of commissioners, and one copy shall be furnished to the State oil and gas supervisor, and one copy shall be furnished to the owner of the well in question. The cost and expense of employing any such stenographer, and the transcribing of his notes and making said copies, shall be part of the expenses of said commissioners, and when certified by the chairman of said board, and audited by the State board of control, shall be paid from said fund.

The traveling expenses of said commissioners, and all actual expenses incurred by or under the order of said commissioners, in the hearing and determination and carrying out of orders appealed to them, shall be certified by the deputy supervisor and the chairman of such board of supervisors, to the State supervisor, and when audited by him and by the State board of control, shall be paid from said fund.

On the third Tuesday in September of each year at an hour and place in said respective districts to be fixed by the State oil and gas supervisor, and of which notices shall have been given as hereinbefore specified, the successor of each of the district oil and gas commissioners whose term of appointment shall expire that year, shall be elected and qualified in the manner and subject to the provisions hereinbefore set forth, and the term of each shall be for a period of three years from and after the first Monday in October next succeeding.

All, either or any of the district oil and gas commissioners elected in any district may be recalled by the votes of a majority of the qualified votes of the district entitled to vote as to such commissioners, respectively. In case there shall be filed in the office of the State oil and gas supervisor, a written petition, signed by not less than forty per cent of those entitled to vote as to the election of any commissioner or commissioners, asking the recall of such commissioner or commissioners, said State oil and gas supervisor shall, within ten days thereafter, order and give notice of, a special election in such district, to fill the office or offices of the commissioner or commissioners named in said petition for recall; and shall cause notice to be given of said election in the manner and for the time required for regular election, and said notice shall fix the time and place of such election. At such election, the commissioner or commissioners named in such petition for recall shall be voted upon as though candidates for election for the unexpired portion of the term for which they, respectively, were originally elected, and any other candidate or candidates may, at the same time, be voted upon. It shall require a majority of all the qualified votes (voters) entitled to vote for such commissioners, respectively, to constitute an election. In case less than a majority of all qualified votes shall be cast for any candidate, said recall shall be deemed to have failed as to the commissioner concerning whose office such vote was taken; and in case such commissioner himself shall receive a majority of the votes, said recall shall be deemed to have failed, and in either of such cases such commissioner shall continue to serve until the expiration of his term, as though no such special election had been held. But in case any person other than such commissioner shall receive a majority of the votes for such unexpired term, then such recall shall become effective and the office of the commissioner so recalled shall be vacant, and upon written certificate of such election being filed with the State oil and gas supervisor, the person so chosen and elected for such unexpired term shall become the successor of the commissioner so recalled, and a certificate of his election for such unexpired term shall be issued and transmitted to him by the State oil and gas supervisor. And like proceedings shall be had in case more than one commissioner shall be included in said petition for recall.

In all recall elections, qualifications for voters and the number of votes which they will be entitled to cast shall be the same as they respectively were

in the election of the commissioner as to whom such recall election is being held.

In case of vacancy caused by the death, resignation, or removal from district or ceasing to be engaged in the business of development or production of oil or gas in the district as to the office of any commissioner, such vacancy shall be filled until the next annual election by the remaining commissioners of such district.

Upon any subject in which any commissioner is personally interested, or upon which any corporation, copartnership, association, or individual by whom he is employed is directly interested as a party, such commissioner shall not be entitled to sit or vote. The board of commissioners shall be entitled to call upon the supervisor for advice and written report upon any matter referred to the board of commissioners, and the supervisor shall be entitled to call meetings of the commissioners at the office of the field supervisor, upon five days' written notice, to obtain their written advice upon any matters relating to his work within their district.

COMPLAINT, INVESTIGATION, AND ORDER.

SEC. 11. Upon receipt by the supervisor or deputy supervisor of a written complaint specifically setting forth the condition complained against, signed by a person, firm, corporation, or association owning land or operating wells within a radius of one mile of any well or group of wells complained against, or upon the written complaint specifically setting forth the condition complained against, signed by any one of the board of commissioners for the district in which said well or group of wells complained against is situated, the supervisor must make an investigation of said well or wells and render a written report, stating the work required to repair the damage complained of, or stating that no work is required. A copy of said order must be delivered to the complainant, or if more than one, each of said complainants, and if the supervisor order the damage repaired, a copy of such order shall be delivered to each of the owners, operators, or agents having in charge the well or wells upon which the work is to be done. Said order shall contain a statement of the conditions sought to be remedied or repaired and a statement of the work required by the supervisor to repair such condition. Service of such copies shall be made by mailing to such persons at the post-office address given.

TESTIMONY.

SEC. 12. In any proceeding before the board of commissioners as herein provided, or in any other proceeding or proceedings instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this act, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly drilled, operated, maintained, or conducted, the supervisor and the chairman of the board of commissioners shall have the power to administer oaths and may apply to a judge of the superior court of the State of California, in and for the county in which said proceeding or investigation is pending, for a subpoena for witnesses to attend at said proceeding or investigation. Upon said application of said supervisor or said chairman of said board of commissioners, said judge of said superior court must issue a subpoena directing said witness to attend said proceeding or investigation; provided, however, that no person shall be required to attend upon such proceeding, either with or without such books, papers, documents, or accounts unless residing within the same county or within thirty miles of the place of

attendance. But the supervisor or the chairman of the board of commissioners may in such case cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this State, and to that end may, upon application to a judge of the superior court of the county within which said proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of books, papers, and documents at such places as he may designate within the limits hereinbefore prescribed. Witnesses shall be entitled to receive the fees and mileage fixed by law in civil causes, payable from the fund hereinafter created. In case of failure or neglect on the part of any person to comply with any order of the supervisor as hereinbefore provided, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, or upon refusal or neglect to appear and attend at any proceeding or hearing on the day specified, after having received a written notice of not less than ten days prior to such proceeding or hearing, or upon his failure, refusal, or neglect to produce books, papers, or documents as demanded in said order or subpoena upon such day, such failure, refusal, or neglect shall constitute a misdemeanor and each day's further failure, refusal, or neglect shall be and be deemed to be a separate and distinct offense, and it is hereby made the duty of the district attorney of the county in which said proceeding, hearing, or investigation is to be held, to prosecute all persons guilty of violating this section by continuous prosecution until such person appears or attends or produces such books, papers, or documents or complies with said subpoena or order of the supervisor or chairman of the board of commissioners.

FINAL DECISION AND ORDER BY COMMISSIONERS.

SEC. 13. Within ten days after hearing the evidence, the board of commissioners must make a written decision with respect to the order appealed from and in case the same is affirmed or modified, shall retain jurisdiction thereof until such time as the work ordered to be done by such order shall be finally completed. This written decision shall be served upon the owner or his agent and shall supersede the previous order of the supervisor. In case no written decision be made by said board of commissioners within thirty days after the date of notice by the supervisor as provided in section 10 hereof, the order of the supervisor shall be effective and subject only to review by writ of certiorari from the superior court as provided in section 14 hereof.

REPAIR OF WELLS BY SUPERVISOR—REVIEW BY SUPERIOR COURT.

SEC. 14. On or before thirty days after the date of serving an order of the supervisor, provided for in section eight hereof, or in case of appeal to the board of commissioners, on or before thirty days after date of serving the decision of the board, as provided in sections 12 and 13 hereof, or in the event review be taken of the order of the board of commissioners within ten days after affirmance of such order, the owner shall commence in good faith the work ordered and continue until completion. If the work has not been so commenced and continued to completion, the supervisor shall appoint agents as he deems necessary who shall enter the premises and perform the work. Accurate account of such expenditures shall be kept and the amount paid from the fund hereinafter created upon the warrant of the State controller. Any amount so expended shall constitute a lien against the property upon which the work is done. The decision of the board of commissioners in such case may be reviewed by writ of certiorari from the superior court of

the county in which the district is situated, if taken within ten days after the service of the order upon said owner, operator, or agent of said owner or operator as herein provided; or within ten days after decision by the board of commissioners upon petitions by the supervisor. Such writ shall be made returnable not later than ten days after the issuance thereof and shall direct the district board of oil and gas commissioners to certify their record in the cause to such court. On the return day the cause shall be heard by the court unless for good cause the same be continued, but no continuance shall be permitted for a longer period than thirty days. No new or additional evidence shall be introduced in the court before the cause shall be heard upon the record of the district board of oil and gas commissioners. The review shall not be extended further than to determine whether or not—

1. The commission acted without or in excess of its jurisdiction.
2. The order, decision, or award was procured by fraud.
3. The order, decision, rule, or regulation is unreasonable.
4. The order, decision, regulation, or award is clearly unsupported by the evidence.

If no review be taken within ten days, or if taken in case the decision of the board is affirmed, the lien upon the property shall be enforced in the same manner as the other liens on real property are enforced, and shall first be enforced against the owner of the well, against the operator and against the personal property and fixtures used in the construction or operation thereof, and then if there be any deficiency against the land upon which the work is done, upon the request of the supervisor, the State controller must, in the manner provided in section 44 of this act, bring an action for the enforcement of said lien.

CASING—WATER SHUT OFF.

SEC. 15. It shall be the duty of the owner of any well now drilled, or that may be drilled in the State of California, on lands producing or reasonably presumed to contain petroleum or gas, to properly case such well or wells with metal casing, in accordance with methods approved by the supervisor, and to use every effort and endeavor in accordance with the most approved methods to effectually shut off all water overlying or underlying the oil or gas-bearing strata, and to effectually prevent any water from penetrating such oil or gas-bearing strata.

When it appears to the supervisor that any water is penetrating oil or gas-bearing strata, he may order a test of water shut-off and designate a day upon which the same shall be held. Said order shall be in written form and served upon the owner of said well at least ten days prior to the day designated in said order as the day upon which said shut-off test shall be held. Upon the receipt of such order it shall be the duty of the owner to hold said test in the manner and at the time prescribed in said order.

ABANDONMENT OF WELL.

SEC. 16. It shall be the duty of the owner of any well referred to in this act, before abandoning the same, or before removing the rig, derrick or other operating structure therefrom, or removing any portion of the casing therefrom, to use every effort and endeavor in accordance with methods approved by the supervisor, to shut off and exclude all water from entering oil-bearing strata encountered in the well. Before any well is abandoned the owner shall give written notice to the supervisor or his local deputy, of his intention to abandon such well and of his intention to remove the derrick or any portion of the casing from such well and the date upon which such work of abandonment or

removal shall begin. The notice shall be given to the supervisor, or his local deputy, at least five days before such proposed abandonment or removal. The owner shall furnish the supervisor, or his deputy, with such information as he may request showing the condition of the well and proposed method of abandonment or removal. The supervisor, or his deputy, shall before the proposed date of abandonment or removal, furnish the owner with a written order of approval of his proposal or a written order stating what work will be necessary before approval, to abandon or remove will be given. If the supervisor shall fail within the specified time to give the owner a written order such failure shall be considered as an approval of the owner's proposal to abandon the well, or to remove the rig or casing therefrom.

COMMENCEMENT OF DRILLING.

SEC. 17. The owner or operator of any well referred to in this act shall, before commencing the work of drilling an oil or gas well, file with the supervisor, or his local deputy, a written notice of intention to commence drilling. Such notice shall also contain the following information: (1) Statement of location and elevation above sea level of the floor of the proposed derrick and drill rig; (2) the number or other designation by which such well shall be known, which number or designation shall not be changed after filing the notice provided for in this section, without the written consent of the supervisor being obtained therefor; (3) the owner's or operator's estimate of the depth of the point at which water will be shut off, together with the method by which such shut-off is intended to be made and the size and weight of casing to be used; (4) the owner's or operator's estimate of the depth at which oil or gas producing sand or formation will be encountered.

After the completion of any well the provisions of this section shall also apply, as far as may be, to the deepening or redrilling of any well, or any operation involving the plugging of any well or any operations permanently altering in any manner the casing of any well; and provided, further, that the number or designation by which any well heretofore drilled has been known, shall not be changed without first obtaining a written consent of the supervisor.

LOG OF WELL—PROSPECT WELL.

SEC. 18. It shall be the duty of the owner or operator of any well referred to in this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formation passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time (so far as ascertained) and to show at what point such water was shut off, if at all, and if not, to so state in such log, and show completely the amounts, kinds, and size of casing used, and show the depth at which oil-bearing strata are encountered, the depth and character of same, and whether all water overlying and underlying such oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; such log shall be kept in the local office of the owner or operator, and, together with the tour reports of said owner or operator, shall be subject, during business hours, to the inspection of the supervisor, or any of his deputies, or any of the commissioners of the district, except in the case of a prospect well as hereinafter defined. Upon the completion of any well, or upon the suspension of operations upon any well,

for a period of six months if it be a prospect well, or for thirty days, if it be in proven territory, a copy of said log in duplicate, and in such form as the supervisor may direct, shall be filed within ten days after such completion, or after the expiration of said thirty-day period, with the field supervisor, and a like copy shall be filed upon the completion of any additional work in the deepening of any such well.

The State oil and gas supervisor shall determine and designate what wells are prospect wells within the meaning of this act and no reports shall be required from such prospect wells until six months after the completion thereof.

The owner or operator of any well drilled previous to the enactment of this act shall furnish to the supervisor or his deputy a complete and correct log in duplicate and in such form as the supervisor may direct, or his deputy, of such well, so far as may be possible, together with a statement of the present condition of said well.

TEST OF SHUT-OFF.

SEC. 19. It shall be the duty of the owner or operator of any well referred to in this act to notify the deputy supervisor of the time at which the owner or operator shall test the shut-off of water in any such well. Such notice shall be given at least five days before such test. The deputy supervisor or an inspector designated by the supervisor shall be present at such test and shall render a report in writing of the result thereof to the supervisor, a duplicate of which shall be delivered to the owner. If any test shall be unsatisfactory to the supervisor he shall so notify the owner or operator in said report and shall within five days after the completion of such test, order additional tests of such work as he deems necessary to properly shut off the water in such well and in such order shall designate a day upon which the owner or operator shall again test the shut-off of water in any such well, which day may, upon the application of the owner, be changed from time to time in the discretion of the deputy supervisor.

PRODUCTION REPORTS.

SEC. 20. It shall be the duty of every person, association or corporation producing oil in the State of California, to file with the supervisor, at his request but not oftener than once in each month, a statement showing amount of oil produced during the period indicated from each well, together with its gravity and the amount of water produced from each well, estimated in accordance with methods approved by the supervisor, and the number of days during which fluid was produced from each well, the number of wells drilling, producing, idle or abandoned, owned or operated by said person, association or corporation; provided, that, upon request and satisfactory showing a longer interval may be fixed by the State oil and gas supervisor as to such reports in the case of any specific owner or operator.

This information shall be in such form as the supervisor may designate.

PENALTY.

SEC. 21. Any owner or operator of a well referred to in this act, or employee thereof, who refuses to permit the supervisor, or his deputy, to inspect the same, or who wilfully hinders or delays the enforcement of this act, and every person, firm, or corporation, who violates any provision of this act, is guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars, or by imprisonment in the county jail for not less than thirty days, or by both such fine and imprisonment.

POLICE POWER OF THE STATE.

SEC. 21a. The charges hereinafter provided for are directed to be levied by the State of California as necessary in the exercise of its police power and to provide a means by which to supervise and protect deposits of petroleum and gas within the State of California, in which deposits the people of the State of California are hereby declared to have a primary and supreme interest.

CHARGES ASSESSED.

SEC. 22. Charges levied, assessed, and collected as hereinafter provided upon the properties of every person, firm, corporation, or association operating any well or wells for the production of petroleum in this State, or operating any well or wells for the production of natural gas in this State, which gas wells are situate on lands situate within two miles, as near as may be, of any petroleum or gas well the production of which is chargeable under this act, shall be used exclusively for the support and maintenance of the department of petroleum and gas hereinbefore created, and shall be assessed and levied by the State mineralogist, and collected in the manner hereinafter provided.

CHARGES ON OIL.

SEC. 23. Every person, firm, corporation, or association operating any petroleum well or wells in this State shall annually pay a charge to the State treasurer at a uniform rate per barrel of petroleum produced for the preceding calendar year at the time and in the manner hereinafter provided, based upon a verified report as herein provided.

CHARGES ON GAS.

SEC. 24. Every person, firm, corporation or association operating any gas well or wells in this State shall annually pay a charge to the State treasurer based upon the amount of gas sold in the preceding calendar year, at a fixed rate per thousand cubic feet, at the times and in the manner hereinafter provided, based upon a verified report as herein provided.

CHARGES ON LAND.

SEC. 25. Every person, firm, corporation, or association owning any oil land, as determined by the supervisor, shall annually pay a charge to the State treasurer at the time and in the manner hereinafter provided, which charge shall be a uniform rate per acre. Said charge shall be based upon a verified report as provided herein; provided, however, that such lands so assessed shall not be called upon to pay more than one-tenth of the total charges or moneys proposed to be assessed, levied, and collected under the provisions of this act for any one year.

SEC. 26. The charges assessed, levied, and to be collected under the provisions of this act shall be in addition to any and all charges, taxes, assessments or licenses of any kind or nature paid by or upon the properties assessed hereunder.

ANNUAL FINANCIAL ESTIMATE.

SEC. 27. The State mineralogist shall annually, on or before the first Monday in March, acting in conjunction with the State board of control, make an estimate of the amount of moneys which shall be required to carry out the provisions of this act.

At the time of making such estimate, the State mineralogist shall report to the State board of control the amount of money in the petroleum and gas fund on the day such estimate is made, less the amount of money necessary for the support of the department of petroleum and gas for the remainder of the fiscal year, and the amount of such estimate shall in no event exceed the difference between the amount thus determined as remaining in the petroleum and gas fund at the end of the fiscal year and the sum of one hundred fifty thousand dollars.

ANNUAL REPORTS BY OWNERS.

SEC. 28. The State mineralogist shall prescribe the form and contents of all reports for making the charge or other purposes to carry out the intent and provision of this act, which form shall be mailed in duplicate to the person, firm, corporation, or association owning property or assessed under the provisions of this act.

SEC. 29. Every person, firm, corporation or association chargeable under the provisions of this act, shall within ten days after the first Monday in March of each year, report to and file with the State mineralogist, a report in such form as said officer may prescribe, giving any and all items of information as may be demanded by said report, and necessary to carry out the provisions of this act, which report shall be verified by such person or officer as the State mineralogist may designate.

SEC. 30. If any person, firm, corporation or association chargeable under the provisions of this act shall fail or refuse to furnish the State mineralogist within the time prescribed in this act the verified report provided for in this act, the State mineralogist must note such failure or refusal in the record of assessments hereinafter in this act provided for, and must make an estimate of the petroleum or gas production, or landed area to be assessed of any such person, firm, corporation or association and must assess the same at the amount thus estimated and compute the charge thereon, which assessment and charge shall be the assessment and charge for such year. And if in the succeeding year any such person, firm, corporation or association shall again fail and refuse to furnish the verified report required by this act, the State mineralogist shall make an estimate as aforesaid, which estimate shall not be less than twice the amount of the estimate made by him for the previous year, and shall note such failure or refusal as above provided, and the said estimate so made shall be the assessment or charge for said year. In case of each succeeding consecutive failure or refusal the said State mineralogist shall follow the same procedure until a true statement or report shall be furnished.

PENALTY.

SEC. 31. Any person, firm, corporation or association failing or refusing to make or furnish any report which may be required pursuant to the provisions of this act, or who willfully renders a false or fraudulent report, shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment for each such offense.

EXTENSION DATE FILING REPORTS.

SEC. 32. The State mineralogist may, for good cause shown, by order entered upon his minutes, extend for not exceeding thirty days, the time fixed in this act for filing any report herein provided for.

RATE OF ASSESSMENT.

SEC. 33. On or before the third Monday before the first Monday in July of each year, the State mineralogist shall determine the rate or rates which shall produce the sums necessary to be raised as provided in section 27 of this act. Within the same time the said State mineralogist shall extend into the proper column of the record of assessments hereinafter provided for the amount of charges due from each person, firm, corporation or association.

SEC. 34. Between the first Monday in March and the third Monday before the first Monday in July in each year, the State mineralogist must assess and levy the charges as and in the manner provided for in this act. The assessments must be made to the person, firm, corporation, or association owning or operating the property subject to assessment hereunder on the first Monday in March. If the name of the owner is unknown to the State mineralogist, such assessment must be made to unknown owners. Clerical errors occurring or appearing in the name of any person, firm, corporation or association whose property is properly assessed and charged, or in the making, or extension of any assessment or charge upon the records, which do not affect the substantial rights of the payer, shall not invalidate the assessment or charge.

EQUALIZATION.

SEC. 35. The State mineralogist and the chairman of the State board of control and the chairman of the State board of equalization shall constitute a board of review, correction, and equalization, and shall have all the powers and perform such duties as usually devolve upon a county board of equalization under the provisions of section 3672 of the Political Code. The State mineralogist shall act as secretary of said board, and shall keep an accurate minute of the proceedings thereof. Said board of review, correction and equalization shall meet at the State capitol on the third Monday before the first Monday in July of each year, and remain in session from day to day until the first Monday in July for the purpose of carrying out the provisions of this section.

PUBLICATION OF ASSESSMENT NOTICE.

SEC. 36. On the third Monday before the first Monday in July of each year the State mineralogist shall cause to be published a notice, one or more times, in a daily, or weekly, or semiweekly newspaper of general circulation published in the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under and pursuant to the terms and provisions of this act, if one be published therein, otherwise in a newspaper of general circulation published in the county nearest to such county designated herein in which no such paper is published, that the assessment of property and levy of charges under and in pursuance of this act has been completed and that the records of assessments containing the charges due will be delivered to the State controller on the first Monday in July, and that if any person, firm, corporation or association is dissatisfied with the assessment made or charge fixed by the State mineralogist, he or it may, at any time before said first Monday in July, apply to said board of review, correction and equalization to have the same corrected in any particular. The said board shall have the power at any time before said first Monday in July to correct the record of assessments and may increase or decrease any assessment or charge therein if in its judgment the evidence presented or obtained warrants such action. Costs of such publi-

cation in any county shall be paid from the petroleum and gas fund; provided, however, that the omission to publish said notice as hereinbefore and in this section provided, shall not affect the validity of any assessment levied under or pursuant to the provisions of this act.

RECORD OF ASSESSMENT.

SEC. 37. The State mineralogist must prepare each year a book in one or more volumes, to be called the "Record of assessments and charges for the petroleum and gas fund," in which must be entered, either in writing or printing, or both writing and printing, each assessment and levy or charge made by him upon the property provided to be assessed and charged under this act, describing the property assessed, and such assessments may be classified and entered in such separate parts of said record as said State mineralogist shall prescribe.

SEC. 38. On the first Monday in July the State mineralogist must deliver to the State controller the record of assessments and charges for the petroleum and gas fund, certified to by said State mineralogist, which certificate shall be substantially as follows: "I, ———, State mineralogist, do hereby certify that between the first Monday in March and the first Monday in July, 19—, I made diligent inquiry and examination to ascertain all property and persons, firms, corporations and associations subject to assessment for the purpose of the petroleum and gas fund as required by the provisions of the act of legislature approved June 10, 1915, providing for the assessment and collection of charges for oil protection; that I have faithfully complied with all the duties imposed upon me by law; that I have not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any person, firm, corporation, or association or property to escape a just assessment or charge through favor or regard, or otherwise." But the failure to subscribe such certificate to such record of assessments and charges for oil protection, or any certificate, shall not in any manner affect the validity of any assessment or charge.

PAYMENT OF CHARGES.

SEC. 39. The charges levied and assessed under the provisions of this act shall be due and payable on the first Monday in July in each year, and one-half thereof shall be delinquent on the sixth Monday after the first Monday in July at six o'clock p. m. and unless paid prior thereto fifteen per cent shall be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock p. m. an additional five per cent shall be added to the amount thereof, and the unpaid portion, or the remaining one-half of said charges shall become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock p. m.; and if not paid prior thereto five per cent shall be added to the amount thereof.

PUBLICATION OF NOTICE OF PAYMENTS DUE.

SEC. 40. Within ten days after the receipt of the record of assessments and charges for oil protection the State controller must begin the publication of a notice to appear daily for five days in one daily newspaper of general circulation published in each of the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under or pursuant to the terms and provisions of this act, if one be published therein, otherwise for at least two times in a weekly or semiweekly paper of general circulation published therein, or if there be neither a daily nor weekly nor semiweekly paper of general circulation

published in any one of such counties, then the publication of the notice for such county shall be made in a similar manner in a newspaper of general circulation published in the county nearest such county, specifying: (1) That he has received from the State mineralogist the record of assessments and charges for oil protection; (2) that the charges therein assessed and levied are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock p. m., and that unless paid to the State treasurer at the capital prior thereto fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock p. m., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said charges will become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock p. m. and if not paid to the State treasurer at the capital prior thereto five per cent will be added to the amount thereof. Costs of such publication in any county shall be paid from the petroleum and gas fund.

CHARGES BECOME LIEN.

SEC. 41. The assessments and charges levied under the provisions of this act shall constitute a lien upon all the property of every kind and nature belonging to the persons, firms, corporations and associations assessed under the provisions hereof, which lien shall attach on the first Monday in March of each year. Such lien shall be enforced and said charges collected by an action by the State controller as provided in section forty-four of this act.

CHARGES PAYABLE TO TREASURER.

SEC. 42. All charges assessed and levied under the provisions of this act shall be paid to the State treasurer upon the order of the State controller. The controller must mark the date of payment of any charge on the record of assessments for the petroleum and gas fund and shall give a receipt for such payment in such form as the controller may prescribe. Errors appearing upon the face of any assessment on said record of assessments or overcharges may be corrected by the controller by and with the consent of the State board of control, in such manner and at such time as said controller and said board shall agree upon.

PROTEST OF CHARGES.

SEC. 43. Any person, firm, corporation or association claiming and protesting as herein provided that the assessment made or charges assessed against him or it by the State mineralogist is void, in whole or in part, may bring an action against the State treasurer for the recovery of the whole or any part of such charges, penalties or costs paid on such assessment, upon the grounds stated in said protest, but no action may be brought later than the third Monday in February next following the day upon which the charges were due, nor unless such person, firm, corporation or association shall have filed with the State controller at the time of payment of such charges, a written protest stating whether the whole assessment or charge is claimed to be void, or if a part only, what part, and the grounds upon which such claim is founded, and when so paid under protest the payment shall in no case be regarded as voluntary.

Whenever, under the provisions of this section, an action is commenced against the State treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of

the county of Sacramento, which demand must be granted. The attorney employed by the State oil and gas supervisor must defend such action; provided, however, the said mineralogist may at the request of the said oil and gas supervisor employ additional counsel, the expense of which employment shall be paid from the petroleum and gas fund. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

A failure to begin such action within the time herein specified shall be a bar against the recovery of such charges. In any such action the court shall have the power to render judgment for the plaintiff for any part or portion of the charge, penalties, or costs found to be void and so paid by plaintiff upon such assessment.

DELINQUENT CHARGES.

SEC. 44. The State controller shall, on or before the thirtieth day of May next following the delinquency of any charge as provided in this act, bring an action in a court of competent jurisdiction, in the name of the people of the State of California, in the county in which the property assessed is situated, to collect any delinquent charges or assessments, together with any penalties or costs, which have not been paid in accordance with the provisions of this act and appearing delinquent upon the records of assessments and charges for the petroleum and gas fund in this action provided for.

The attorney for the State oil and gas supervisor shall commence and prosecute such action to final judgment and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. The State mineralogist may employ additional counsel to assist the attorney for the State oil and gas supervisor, and the expense of such employment shall be paid from the petroleum and gas fund.

Payments of the penalties and charges, or amount of the judgment recovered in such action must be made to the State treasurer. In such actions the record of assessment and charges for oil protection, or a copy of so much thereof as is applicable in said action, duly certified by the controller showing unpaid charges against any person, firm, corporation or association assessed by the State mineralogist is prima facie evidence of the assessment upon the property, the delinquency, the amount of charges, penalties, and costs due and unpaid to the State, and that the person, firm, corporation or association is indebted to the people of the State of California in the amount of charges and penalties therein appearing unpaid and that all the forms of law in relation to the assessment of such charges have been complied with.

FIRST ASSESSMENT, MARCH, 1916.

SEC. 45. The first assessment under the provisions of this act shall be as of the first Monday in March, 1916, and the reports of petroleum production and sales of gas herein provided to be assessed shall be reported for the calendar year ending December thirty-first, 1915. The lands herein provided to be assessed and charged shall be assessed to the owners thereof as of the first Monday in March, 1916.

DISPOSAL OF FUNDS.

SEC. 46. All the moneys heretofore paid to the State treasurer under or pursuant to the provisions of this act and deposited to the credit of the oil protection fund, shall be withdrawn from said fund, which is hereby abolished, and deposited to the credit of the petroleum and gas fund which is hereby created.

All of the moneys hereafter paid to the State treasurer under or pursuant to the provisions of this act shall be deposited to the credit of the petroleum and gas fund. All moneys in such fund shall be expended under the direction of the State mineralogist, drawn from such fund for the purpose of this act upon warrants drawn by the controller of the State, upon demands made by the State mineralogist, and audited by the State board of control. Of the moneys in said petroleum and gas fund, when such action has been authorized by the State board of control, the State mining bureau may withdraw, without at the time furnishing vouchers and itemized statements, a sum not to exceed five hundred dollars, said sum so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time, upon demand of the board of control, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control.

SEC. 47. All moneys received in repayment of repair work done under the order and direction of the supervisor as hereinbefore provided, shall be returned and credited to the petroleum and gas fund.

ANNUAL REPORT BY SUPERVISOR.

SEC. 48. On or before the first day of October of each and every year the supervisor shall submit a report in writing to the State mineralogist showing the total number of barrels of petroleum produced in each county in the State during the previous calendar year, together with the total cost of said department for the previous fiscal year and the net amount remaining in the petroleum and gas fund available for the succeeding fiscal year's expense, also the total amount delinquent and uncollected from any assessments or charges levied under or pursuant to the provisions of this act. Such report shall also include such other information as the supervisor may deem advisable. The State mineralogist shall make public such statements promptly after receipt of the same from the supervisor for the benefit of all parties interested therein.

RECORDING OF LEASES.

SEC. 49. The owner or operator of any lands or tenements subject to assessment under this act shall, within six months after this act goes into effect, file with the supervisor a certificate which shall contain the names of all the parties claiming an interest in or to said lands and full description of the property and the names of all parties in interest where such interest is held by lease, license or assignment.

DEFINITIONS.

SEC. 50. Whenever the term "supervisor" is used in this act it shall be taken to mean the "State oil and gas supervisor," the term "oil" shall include "petroleum," the term "petroleum" shall include "oil," the term "gas" shall mean natural gas coming from the earth, the term "operator" shall mean any person, firm or corporation drilling, maintaining, operating, pumping, or in control of a well in any territory which the supervisor determines to be oil or gas producing territory, the term "owner" shall include "operator" when any oil or gas well is operated or has been operated or is about to be operated by any person, firm or corporation other than the owner thereof, and the term "operator" shall include "owner" when any such well is or has been or is about to be operated by or under the direction of the owner, except that all the provisions of this act relating to assessments for the purposes of this act based

upon the annual production of oil or petroleum or sale of gas, as set forth in sections 22 to 45, inclusive, of this act, shall apply only to a person, firm or corporation operating an oil or petroleum or gas well, and shall not apply to the owner of such well if some person, firm or corporation, other than such owner, has been actually operating the well during the whole period for which such annual charge is made, but in the event that the actual operation of any such well changes hands during such period, the charge shall be apportioned upon the basis of the oil or petroleum or gas produced, and the lien provided for in section forty-one of this act shall be a lien against the property of each and all such operators.

APPROPRIATION FIRST YEAR.

SEC. 51. There is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, the sum of twenty thousand dollars which said sum shall be immediately transferred by the State controller on the books of his office from the general fund to the "oil protection fund" created by section 46 of this act.

The above-mentioned fund shall be available for the uses of the State mineralogist for the maintenance of the department of petroleum and gas and for the necessary expenses of the controller in carrying out the provisions of this act. When the collections paid to the State treasurer, as herein provided, equal the sum of thirty thousand dollars then said sum of twenty thousand dollars shall be retransferred from the oil protection fund to the general fund. The moneys received into the State treasury through the provisions of this act are hereby appropriated for the uses and purposes herein specified.

CONSTITUTIONALITY.

SEC. 52. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

INCORPORATED CITIES.

SEC. 53. This act shall be liberally construed to meet its purposes and the supervisor shall have all powers which may be necessary to carry out the purposes of this act, but the provisions of this act shall not apply to any land or wells situated within the boundaries of an incorporated city where the drilling of oil wells is prohibited.

REPEAL OF PREVIOUS LAW.

SEC. 54. That certain act entitled "An act to prevent injury to oil, gas or petroleum bearing strata or formations by the penetration or infiltration of water therein," approved March 20, 1909, together with all acts amendatory thereof and supplemental thereto and all acts in conflict herewith are hereby repealed. Nothing herein shall be construed as affecting the provisions of the act of June 16, 1913, establishing a State mining bureau.

COLORADO.

CONTENTS.

	Page.
Oil-----	72
Emptying into waters prohibited-----	72
Oil and gas wells-----	72
Drilling and plugging—Regulations-----	72
Liens for labor and material-----	74
Oil locations-----	75
Resolution-----	75

OIL.

EMPTYING INTO WATERS PROHIBITED.

LAWS 1889, P. 287.

MARCH 7, 1889.

AN ACT to prohibit the emptying or running of oil or petroleum, or other oleaginous substance, into any waters of this State, and to impose a penalty for the violation of this act.

Be it enacted, etc.:

SEC. 1. If any person or persons, corporation or corporations, shall hereafter empty or cause to be emptied, or allow the emptying or flowing of oil, petroleum, or other oleaginous substance into any of the waters of this State, or deposit or cause the same to be deposited at such distance that the same may be carried into such waters by natural causes, such person or persons, corporation or corporations, so offending shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding six months, or both such fine and imprisonment, for each such offense.

OIL AND GAS WELLS.

DRILLING AND PLUGGING—REGULATIONS.

LIENS FOR LABOR AND MATERIAL.

DRILLING AND PLUGGING—REGULATIONS.

LAWS 1915, P. 367.

APRIL 13, 1915.

AN ACT relating to the production, purity, sale, and inspection of kerosene, gasoline, and all other fluid substances produced in whole or in part from petroleum, paint, varnish, filler, stain, linseed oil, turpentine and all other similar substances; establishing the office of State inspector of oils, with officers, assistants, and powers to enforce the provisions of this act; and repealing all acts and parts of acts in conflict herewith.

Be it enacted, etc.:

* * * * *

NOTE.—Sections 28 to 38, inclusive, are given under this title.

SEC. 28. It shall be the duty of the owner, owners, or person in charge of any bore hole which shall penetrate any workable coal seam or any accessible or inaccessible coal mine excavation to notify the State oil inspector of the loca-

tion of such bore hole by designating the particular five-acre subdivision of the land section on which such bore hole is situated, and the depth and thickness of each and every workable coal seam or accessible or inaccessible coal mine excavation penetrated by such bore hole, and on receipt of such notification the State oil inspector shall at once notify the State coal mine inspector.

SEC. 29. It shall be unlawful for any person or corporation having possession or control of any natural gas or oil well, whether as contractor, owner, lessee, agent, or manager, to allow or permit the flow of gas or oil from any such well to escape into the open air, but shall use due diligence to confine such gas or oil in such well or pipes or other safe and proper receptacles, or shall put the same to some beneficial use.

SEC. 30. Whenever any well shall have been sunk for the purpose of obtaining natural gas or oil, or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom it shall be the duty of any person or corporation having custody or control of such well at the time of such abandonment, and also of the owner or owners of the land whereon such well is situated, to properly and securely stop and plug the same in the following manner, to wit:

There shall be placed in such well, above and below each and every water-bearing formation which shall have been encountered, a plug of seasoned wood, the diameter of which shall be not less than one-half inch smaller than the hole of such well where it is to be plugged, such plugs to be not less than five feet in length. The plug which shall be placed below such water-bearing formation shall be properly anchored by ordinary methods, and the plug which shall be placed above such water-bearing formation shall be anchored in like manner, and the hole immediately above such plug shall be filled for a distance of not less than three feet with finely broken sand, gravel or stone.

A plug of seasoned wood, or other wood obtainable in the vicinity of such well, and not less than five feet long, and of the diameter of the hole, shall be placed in the top of such well, in order to prevent the entrance of surface water.

In the event that for any reason any well or wells shall cease to be operated for the utilization of oil or gas, and it is the intention of the owners or persons having charge of such well or wells to reopen them at some future time for the utilization of the said oil or gas, the provisions of this act relating to the plugging of wells shall be inoperative, except that it shall be imperative upon the owners or persons having charge and control of said well or wells, to adopt such measures as will prevent the oil or gas escaping into the open air until such time as the said well or wells are to be operated and the oil or gas put to some beneficial use.

SEC. 31. Whenever any person, persons, or corporations have abandoned or ceased operating any well or wells, as set forth in the immediately preceding section of this act, such person, persons, or corporation shall file with the county clerk of the county in which such well or wells are located, a sworn statement setting out the manner in which such well or wells have been plugged, and the date that same were plugged, together with the location of such well or wells; said location to be considered sufficient when shown as being in a specified five-acre subdivision of a designated land section, when the location shall be upon surveyed lands. When upon unsurveyed lands, the location must be shown on a map of the land section in which it may be situated, with proper metes and bounds to identify it. The said statement to be sworn to by at least two persons who shall have assisted in the actual work of plugging of said well or wells.

SEC. 32. No bore hole penetrating a gas-bearing or oil-bearing formation shall be located within two hundred feet of a shaft, or entrance, to a coal mine not definitely abandoned or sealed; nor shall such bore hole be located within one hundred feet of any mine shaft house, mine boiler house, mine engine house, or mine fan; and the location of any proposed bore hole must insure that when drilled it will be at least fifteen feet from any mine haulage or airway.

SEC. 33. Any bore hole penetrating any workable seam of coal shall be cased by the owner of such bore hole with suitable casing, conductor or drive pipe, so as to shut off all surface water from entering said workable coal seam.

SEC. 34. When bore holes for gas or oil are drilled in the coal measures and pass through workable seams, if gas or oil is encountered in such bore hole, the coal seams, or worked-out coal seams, shall be sufficiently protected by casing so that the gas or oil shall not come in contact with the coal seams or enter the excavations of worked-out seams.

SEC. 35. When water-bearing formation is encountered in the drilling of any bore hole for natural gas or oil, casing shall be set upon the next formation encountered which is of such a nature that it will sustain the casing and exclude all water from the lower bore hole.

SEC. 36. When a bore hole has been drilled and completed and placed in operation for the utilization of natural gas or oil, the owner of such well shall file with the inspector a statement of the total depth of the hole, the sizes and lengths of casings used and remaining in the hole, the depth and thickness of coal seams penetrated and whether oil, gas, or water was obtained.

The information thus given to the inspector shall not be deemed to be public record and shall be given out by the inspector or his deputies only upon the written consent of the person, persons or corporation rendering such statement.

SEC. 37. When any oil or gas well is to be abandoned the owner shall notify the inspector in writing of such intent to abandon and shall proceed with the plugging as provided herein.

SEC. 38. Sections 28, 32, 33, 34, 35, and 36 apply only to wells or bore holes which may be drilled through workable coal seams.

* * * * *

LIENS FOR LABOR OR MATERIAL.

LAWS 1903, P. 355.

APRIL 11, 1903.

AN ACT to secure to person or persons who perform labor or furnish material, machinery, or supplies for constructing, altering, repairing, digging, boring, operating or completing gas, oil, or other wells. (NOTE.—The word "lien" does not occur in the title.)

Be it enacted, etc.:

SEC. 1. That any person or persons, company or corporation, who perform labor or furnish material or supplies for constructing, altering, or repairing, or for the digging, drilling, or boring, operating, completing or repairing of any gas well, oil well, or any other well, by virtue of a contract with the owner or his authorized agent, shall have a lien to secure the payment of the same upon such gas well, oil well, or such other well, and upon the materials and machinery and equipment and supplies so furnished, and in case the contract is with the owner of the lot or land, then such lien shall also be upon the interest of the owner of the lot or land upon which the same may stand, and in case the contract is with the lease holder of the lot or land, then such lien shall also be upon the interest of the lease holder on the lot or land upon which the same may stand or in relation to which such material or supplies are furnished.

SEC. 2. That in perfecting and enforcing the right herein given, the procedure indicated in the laws of this State, and the remedies and rights given, in the statutes of and concerning, "Liens of mechanics" as the same may now, or in the hereafter shall exist, shall be held to apply, in so far as the same may be applicable.

SEC. 3. It is the opinion of the general assembly that an emergency exists; therefore, this act shall be in force from and after the date of its passage.

LAWS 1911, P. 493.

JUNE 4, 1911.

AN ACT providing a lien for miners, mill men, and those furnishing materials for miners and mills or either of them.

Be it enacted, etc.:

SEC. 1. That every miner or other persons, who at the request of the owner or owners of (or) his, its, or their agents of any * * * (mines named), or at the request of any contractor or subcontractor shall perform any labor whatever on * * * (mines named), or furnishes any timber, powder, rope, nails, candles, fuse, caps, rails, spikes, steel or iron, or any other material whatever used in the sinking of any shaft upon any such property, * * * or who shall furnish any of said materials or any machinery of any kind or character for hoist or windlass thereon or for any purpose of mining upon said property * * * or shall perform any labor in any of said workings upon said property, * * * shall have a first lien upon any and all of such property. * * *

* * * * *

SEC. 8. The provisions of this article shall apply to oil wells or springs. * * * so far as the same may be applicable.

SEC. 9. All acts and parts of acts in conflict herewith are hereby repealed.

OIL LOCATIONS.

RESOLUTION.

LAWS 1917, P. 600.

FEBRUARY 2, 1917.

SENATE CONCURRENT RESOLUTION NO. 4.

FOR THE PROTECTION AND MAINTENANCE OF THE OIL INDUSTRIES OF THE STATE OF COLORADO.

Be it resolved, by the senate of the State of Colorado, the house of representatives concurring, that:

Whereas, Hundreds of citizens of this State have taken oil placer claims under the oil placer mining act, and have complied with the law in good faith, by doing the assessment work required to hold and develop said claims; and

Whereas, In many cases these lands have been located and held by prospectors who have expended their time and money for many years in trying to hold and develop these oil placer claims until the conditions and demand for the product would make it possible to operate the same; and

Whereas, These lands were located and held under the only law that made it possible for the prospector for oil and gas to acquire the same; and

Whereas, These locations were made in good faith and held by the locators before any withdrawal of said lands was made or even contemplated by the Government; and

Whereas, There is now before Congress a bill known as the Ferris-Phelan bill, H. R. 406, providing for the leasing of all oil and gas lands on the public domain; and

Whereas, Lands which have not been withdrawn are affected by said leasing bill in such a way as to jeopardize existing claims of present bona fide locators: Therefore, be it

Resolved, That the Congress of the United States be memorialized to amend said leasing bill to give to all locators and assigns who have held the land in good faith and have complied with the oil placer mining law the preferential right to lease the same, on the same terms that may be required from any other applicant, and claims of original locators or assigns having perfected discoveries under the oil placer mining law as recognized by State courts to be exempt from being compelled to lease such lands from the Government or pay a royalty burden; be it further

Resolved, That a copy of this memorial be sent to the Hon. Charles S. Thomas, Hon. John F. Shafroth, Hon. Ed. T. Taylor, Hon. Edward Keating, Hon. Ben. C. Hilliard, and the Hon. C. B. Timberlake, asking their aid in carrying out the object of this resolution.

DELAWARE.

CONTENTS.

	Page.
Oil companies -----	77
Transportation and storage -----	77
Pipe line companies -----	78
Franchise tax—Reports -----	78

OIL COMPANIES.

TRANSPORTATION AND STORAGE.

REVISED CODE, 1915, P. 972.

CHAPTER 65.

ARTICLE 6.

2047. SEC. 133. Eminent domain.

Every corporation organized under the provisions of this chapter for the * * * transportation and storage of oil, shall in addition to the powers conferred upon corporations generally, have full authority to lay down necessary pipes, mains and conduits beneath the public roads, highways, streets, avenues and alleys of any county, city, incorporated town or district of this State; provided, however, that such pipes, mains, and conduits shall be laid at least three feet below the surface of the same, and shall not in anywise unnecessarily obstruct or interfere with public travel, or damage public or private property; and provided, also, that the consent of the council, town commissioners or other persons having control over the public roads, highways, streets, avenues and alleys of the county, city, town and district wherein or through which it is contemplated to lay such pipes, mains and conduits beneath such public roads, highways, streets, avenues or alleys shall first and as a condition precedent be obtained, before any such public roads, highways, streets, avenues or alleys shall be disturbed, opened or dug up; such consent of such council or town commissioners or other persons having control over such roads, highways, streets, avenues and alleys shall be by ordinance of such council or commissioners duly adopted, or by resolution of such persons having control over the public roads or highways, adopted at a meeting to be held not less than thirty days after notice thereof shall have been given by notices posted up in five of the most public places on the road or highway which is proposed to be used for the purpose aforesaid; that such use of public roads, highways, or streets, avenues and alleys in any of the counties, cities, towns or districts in this State shall be subject to such terms, regulations, taxation and restrictions as may be imposed by the council, town commissioners or other persons having control over the public roads and highways of the county, city, town or district, and that the portions of the surfaces of the roads, highways, streets, avenues and alleys disturbed in laying the said pipes shall be immediately restored to their original condition, and that any pavements which are removed for the purpose of laying or repairing the pipes, mains, and conduits, shall be restored to as good condition as they were previous thereto, and so maintain

the same for six months after the completion of the works; and in case of failure on the part of the corporation to so restore and maintain the same, the street commissioner or other officer having supervision of the streets may properly restore and maintain the same, and the costs thereof may be recovered by the city or town from the corporation in any court of competent jurisdiction. Any such company mentioned in this section may take lands, easements, and rights of way, for heating, constructing, maintaining and operating its * * * stations, tanks and reservoirs * * * and delivery stations, and offices, and for laying down its pipes, tubes, conduits, connections and branches from any points to any other points in the State; and for all necessary purposes of the corporation, including the right to cross any railroad, and the right to appropriate a right of way and locate its pipes, tubes or conduits upon, over or under, and across any lands, water, streams, rivulets, canals, roads, turnpike roads or other highways in such manner as shall not interfere with the ordinary use of the same; provided, that in crossing any rivulet or other stream the pipes, tubes, and conduits shall be laid and securely suspended above flood lines, or laid beneath the bed of any rivulet or other stream so crossed. Any company occupying any lands cleared and used for agricultural purposes, by laying thereon or thereunder any of its pipes, tubes, or conduits, shall bury the same at least twenty-four inches below the surface if so required by the owner of the land. In case any corporation mentioned in this section desiring to acquire, occupy or use any lands in this State for its corporate use can not agree with the owner or owners thereof as to the terms and conditions of such acquisition, occupancy or use, and the value, compensation, or damages to be paid for such acquisition, occupancy, or use, it shall have the right to acquire, use and hold such lands in like manner as is provided in section 110 of this chapter for acquiring lands for the location, construction, and maintenance of railroads. (21 Del. Laws, ch. 273, sec. 101; 22 Del. Laws, ch. 166, sec. 18.)

PIPE LINE COMPANIES.

FRANCHISE TAX—REPORTS.

REVISED CODE 1915, P. 68.

102. SEC. 65. Franchise taxes; corporations subject to.

Every * * * oil or pipe line company, * * * incorporated after the tenth day of March, A. D. 1899, under the laws of this State, shall pay an annual tax, for the use of the State, by way of a license for its corporate franchise as hereinafter mentioned. * * * (21 Del. Laws, ch. 166, sec. 1.)

103. SEC. 66. Annual reports to secretary of state; form and purpose.

Annually, on or before the first Tuesday in January, it shall be the duty of the president, treasurer or other proper officer, or any two directors, of any corporation now existing or hereafter to be incorporated under the provisions of the laws of this State of the character specified in the preceding section, to make report to the secretary of state, stating specifically the location of its principal office in this State, and the name of the agent upon whom service of process against said corporation may be served, the location or locations (town or towns, city or cities, street or streets and number, if number there be) of the place or places of business of said corporation without this State; the names and addresses of all the directors and officers of the company and when the terms of each expire; the amount of its authorized capital stock, if any, and the amount actually paid in; the date appointed for the next annual meeting of the stockholders for the election of directors; as well also the following particulars, namely: * * * each oil or pipe line company engaged in the trans-

portation of oil or crude petroleum shall state the gross amount of its receipts from the transportation of oil or petroleum through its pipes or in and by its tanks or cars in this State during the same time. * * * (21 Del. Laws, ch. 166, sec. 2; 22 Del. Laws, ch. 15, sec. 2; 22 Del. Laws, ch. 16, sec. 1; 24 Del. Laws, ch. 1, sec. 1; 27 Del. Laws, ch. 19.)

104. SEC. 67. False statements perjury.

If any officer of any corporation required by sections 66 and 82 of this chapter to make return to the secretary of state, shall, in such return, make any false statement, he shall be deemed guilty of perjury; if any such corporation shall neglect or refuse to make such return within the time limited as aforesaid, the secretary of state shall ascertain and fix the amount of the annual license fee or franchise tax and the basis upon which the same is determined, in such manner as may be deemed by him most practicable, and the amount so fixed by him shall stand as such basis of taxation under sections 65 to 83, inclusive of this chapter. (21 Del. Laws, ch. 166, sec. 3.)

105. SEC. 68. Rates of franchise taxes.

Each * * * oil or pipe line corporation shall pay to the State treasurer, for the use of the State, an annual license fee or franchise tax at the rate of three-fifths of one per centum upon the gross amount of its receipts so returned or ascertained. * * * If any oil or pipe line corporation has part of its transportation line in this State and part thereof in another State or other States, such corporation shall return a statement of its gross receipts for transportation of oil or petroleum over its whole line, together with a statement of the whole length of its line, and the length of its line in this State; such corporation shall pay an annual license fee or franchise tax to the State treasurer, for the use of the State, at the aforesaid rate upon such proportion of its said gross receipts as the length of its line in this State bears to the whole length of its line * * * (21 Del. Laws, ch. 166, sec. 4; 22 Del. Laws, ch. 16, sec. 2; 22 Del. Laws, ch. 259, sec. 1; 24 Del. Laws, ch. 47, sec. 1; 27 Del. Laws, chs. 19, 20.)

IDAHO.

CONTENTS.

	Page.
Public utilities commission-----	80
Pipe lines and gas plants—Control and regulation-----	80

PUBLIC UTILITIES COMMISSION.

PIPE LINES AND GAS PLANTS—CONTROL AND REGULATION.

LAWS 1913, P. 247.

MARCH 13, 1913.

CHAPTER 61.

AN ACT to provide for the organization of the public utilities commission, to define its powers and duties and the rights, remedies, powers, and duties of public utilities, their officers, agents and employees and the rights, and remedies of patrons of public utilities, and to provide penalties for offenses by public utilities, their officers, agents and employees, and by other persons and corporations, appropriating the necessary funds to carry out the provisions of this act, repealing section 2839 of the Revised Codes of the State of Idaho, and chapter 31, title 8 of the Revised Codes of Idaho, and house bill No. 104 of the 1909 session laws of Idaho, and chapter 49 of the 1911 session laws of the State of Idaho, and repealing all acts and parts of acts in so far as they are inconsistent with the provisions of this act.

Be it enacted, etc.:

SEC. 1. This act (law) shall be known as the "Public Utilities Act" and shall apply to the public utilities and public services herein described and to the commission herein referred to. (Sec. 2368, compiled statutes, 1919.)

NOTE.—The original section 2 was amended by the act of March 11, 1915, and the amendatory section was also amended by the act of March 20, 1917, and the section was carried into the compiled statutes of 1919 and divided into separate sections numbered 2369 to 2396, and these sections that are applicable to this subject are as follows:

SEC. 2369. Commission.

The term "commission" when used in this chapter means the public utilities commission of the State of Idaho. (Laws 1913, sec. 2(a).)

SEC. 2370. Commissioner.

The term "commissioner" when used in this chapter means one of the members of the commission. (Laws 1913, sec. 2(b).)

SEC. 2371. Corporation: municipal and mutual excluded.

The term "corporation" when used in this chapter includes a corporation, a company, an association and a joint-stock association, but does not include a municipal corporation, or mutual nonprofit or cooperative gas, * * * or any other public utility organized and operated for service at cost and not for profit, whether inside or outside the limits of incorporated cities, towns or villages. (Laws 1913, sec. 2(c), as amended by acts of 1915 and 1917, p. 431.)

* * * * *

SEC. 2381. Pipe line.

The term "pipe line" when used in this chapter includes all real estate, fixtures, and personal property owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of crude oil or other fluid substances except water through pipe lines. (Laws 1913, sec. 2(m).)

SEC. 2382. Pipe line corporation.

The term "pipe line corporation" when used in this chapter includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe line for compensation within this State. (Laws 1913, sec. 2 (n).)

SEC. 2383. Gas plant.

The term "gas plant" when used in this chapter includes all real estate, fixtures, and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas (natural or manufactured) for light, heat or power. (Laws 1913, sec. 2(o).)

SEC. 2384. Gas corporation.

The term "gas corporation" when used in this chapter includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any gas plant for compensation, within this State, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others. (Laws 1913, sec. 2(p).)

* * * * *

SEC. 2396. Public utility.

The term "public utility" when used in this chapter includes every common carrier, pipe-line corporation, gas corporation, * * * as those terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the commission and to the provisions of this chapter: Provided, That the term "public utility" as used in this chapter shall cover cases both where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof. (Laws 1917, sec. 2, subd. bb.)

* * * * *

SEC. 2411. Charges just and reasonable.

All charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful. (Laws 1913, sec. 12(a).)

SEC. 2412. Service adequate.

Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable. (Laws 1913, sec. 12(b).)

SEC. 2413. Rules reasonable.

All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable. (Laws 1913, sec. 12(c).)

* * * * *

Sec. 1425. Schedules of others than common carriers.

Under such rules and regulations as the commission may prescribe, every public utility other than a common carrier shall file with the commission within such time and in such form as the commission may designate, and shall print and keep open to public inspection schedules showing all rates, tolls, rentals, charges and classifications collected or enforced or to be collected or enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to rates, tolls, rentals, classifications or service. The rates, tolls, rentals and charges shown on such schedules when filed by a public utility as to which the commission by this chapter acquires the power to fix any rates, tolls, rentals or charges shall not within any portion of the territory as to which the commission acquires as to such public utility such power, exceed the rates, tolls, rentals or charges in effect on the 2d day of January, 1913, the rates, tolls, rentals and charges shown on such schedules when filed by any public utility as to any territory as to which the commission does not by this chapter acquire as to such public utility such power, shall not exceed the rates, tolls, rentals and charges in effect at the time the commission acquires as to such territory and as to such public utility, the power to fix rates, tolls, rentals or charges. Nothing in this section contained shall prevent the commission from approving or fixing the rates, tolls, rentals or charges, from time to time in excess or less than those shown by said schedules. (Laws 1913, sec. 13(b).)

Sec. 2416. Schedules: change in form.

The commission shall have the power from time to time, in its discretion, to determine and prescribe by order such changes in the form of the schedules referred to in the two preceding sections as it may find expedient, and to modify the requirements of any of its orders, rules, or regulations in respect to any matter in this section referred to. (Laws 1913, sec. 13c.)

Sec. 2417. Schedules: change in rate and service.

Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, except after 30 days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the 30 days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission by some character to be designated by the commission immediately preceding or following the item. (Laws 1913, sec. 14.)

Sec. 2418. Joint rates.

The names of the several public utilities which are parties to any joint tariff rate, fare, toll, contract, classification or charge shall be specified in the schedule or schedules showing the same. Unless otherwise ordered by the commission, a schedule showing such joint tariff rate, fare, toll, contract, classification or

charge need be filed with the commission by only one of the parties to it: Provided, That there is also filed with the commission in such form as the commission may require a concurrence in such joint tariff rate, fare, toll, contract, classification or charge by each of the other parties thereto. (Laws 1913, sec. 15.)

* * * * *

SEC. 2425. Schedule charges only permitted.

Except in this chapter otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation from any product or commodity furnished or to be furnished or for any service rendered or to be rendered than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation of any facility or privilege except such as are specified in such schedules and as are regularly and uniformly extended to all corporations and persons. * * * (Laws 1913, sec. 16 (b).)

* * * * *

SEC. 2427. Discrimination and preference prohibited.

No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section. (Laws 1913, sec. 18.)

SEC. 2428. Profits.

Nothing in this chapter shall be taken to prohibit any public utility from itself profiting, to the extent permitted by the commission, from any economies, efficiencies or improvements which it may make and from distributing by way of dividends or otherwise disposing of the profits to which it may be so entitled, and the commission is authorized to make or permit such arrangement or arrangements with any public utility as it may deem wise for the purpose of encouraging economies, efficiencies, or improvements and securing to the public utility making the same such portion, if any, of the profits thereof, as the commission may determine. (Laws 1913, sec. 19.)

* * * * *

SEC. 2443. Information to be furnished.

Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe, all tabulations, computations and all other information required by it to carry into effect any of the provisions of this chapter and shall make answers to the best of their knowledge to all questions submitted by the commission. (Laws 1913, sec. 26a.)

SEC. 2444. Inventory of physical properties.

Every public utility except railroad corporations shall file with the commission an inventory of all its physical properties within the State, designating the exact location of its property within the several counties of the State. Such inventory shall show in detail the cost of construction together with the depreciation charges incident thereto since construction, or may show the cost of replacement of such properties if, in the opinion of the commission, the original cost and depreciation charges can not be obtained: Provided, That in the event any public utility refuses or neglects to file such inventory, or the inventory so

filed is inaccurate, the commission may send its agents upon the ground and make an inventory as desired by the commission. The entire cost of making such inventory by the agents of the commission shall be paid by the public utility from its profit and loss account and shall not be charged to operating expenses, and such payment shall be made to the treasurer of the State, who shall deposit the same to the credit of the fund provided for the engineering department of said commission.

Every public utility shall file the inventory herein required within six months after the approval of this act by the governor unless for just cause shown the commission may extend such time and shall file new, amended or supplemental inventories at such times thereafter as the commission may require. (Laws 1919, ch. 179, p. 556.)

SEC. 2445. Blanks.

Every public utility receiving from the commission any blanks, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure. (Laws, 1913, sec. 26b.)

SEC. 2446. Copies of maps and records to be furnished.

Whenever required by the commission every public utility shall deliver to the commission copies of any and all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business containing evidence relating to the merits of or pertinent to the hearing of any issue pending before the commission. (Laws, 1913, sec. 26c.)

SEC. 2447. Disclosure of confidential information a felony.

No information furnished to the commission by a public utility except such matters as are specifically required to be open to public inspection by the provisions of this chapter, shall be open to the public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any commissioner, officer or employee of the commission who, in violation of the provisions of this section, divulges any such information shall be guilty of felony.

SEC. 2448. Annual report.

Every public utility shall file an annual report with the commission, verified by the oath of an officer thereof. The verification shall be to the best of said official's knowledge, information and belief. The commission shall prescribe the form of such report and the character of the information to be contained therein, and may from time to time make such changes and such additions in regard to the form and contents thereof as it may deem proper, and on or before June 30 in each year shall furnish a blank form for such annual reports to every public utility. The contents of such reports and the form thereof shall conform, as nearly as may be, in the case of public utilities subject to an act of Congress, entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, to that required by the Interstate Commerce Commission; and the commission may also require the report to contain such additional information as is reasonably practicable for the public utility to furnish in relation to rates or regulations concerning fares, rates, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within this State. In case it is unable to give such information, it shall give a good and sufficient reason for such failure. When the report of such corporation is defective or believed to be erroneous the commission shall notify the corporation or person to amend the same within the time prescribed by the commission. The originals of the reports

subscribed to and sworn to as prescribed by law shall be filed on or before the 30th day of September in each year and preserved in the office of the commission. The commission may extend the time for making and filing such report for a period not exceeding 60 days.

Provided, That the commission may in its discretion, prescribe an abbreviated or modified form for such annual report, to be used by persons or corporations who operate or control any plant or system for distributing electric current, but who do not generate such current, or by persons or corporations who operate on a small scale or serve a small community of persons. (Laws 1913, sec. 27.)

SEC. 2449. Compliance with commission's orders.

Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees. (Laws 1913, sec. 28.)

SEC. 2450. Investment of authority.

The public utilities commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the State and to do all things necessary to carry out the spirit and intent of the provisions of this chapter. (Laws 1913, sec. 29.)

SEC. 2451. Determination of rates.

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursions or commutation tickets, or that the rules, regulations, practices, or contracts or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force and shall fix the same by order as hereinafter provided, and shall, under such rules and regulations as the commission may prescribe, fix the reasonable maximum rates to be charged for water by any public utility coming within the provisions of this chapter relating to the sale of water. (Laws 1913, sec. 30a.)

SEC. 2452. Power to investigate and fix rates and regulations.

The commission shall have power upon a hearing, had upon its own motion or upon complaint to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or any thereof, of any public utility, and to establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices or schedule or schedules in lieu thereof. (Laws 1913, sec. 30b.)

* * * * *

SEC. 2455. Determination of rules and regulations.

The commission shall prescribe rules and regulations for the performance of any services or the furnishings of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within

the time and upon the conditions provided in such rules. (Laws 1913, sec. 33.)

SEC. 2456. Improvements may be ordered.

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If any additions, extensions, repairs, improvements or changes, or any new structure or structures which the commission has ordered to be erected, requires joint action by two or more public utilities the commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time such utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost of expense of such additions, extensions, repairs, improvements or changes, or new structures or structure, the commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured. (Laws 1913, sec. 34.)

* * * * *

SEC. 2462. Joint use of plant and equipment.

Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public convenience and necessity require the use by one public utility of the conduits, * * * pipes or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, * * * pipes or other equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users of such conduits, * * * pipes or other equipment for such damage as may result therefrom to the property of such owner or other users thereof. (Laws 1913, sec. 39.)

SEC. 2463. Safety regulations.

The commission shall have the power, after a hearing had upon its own motion or upon complaint, by general or special orders, or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other

devices or appliances, * * * to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand. (Laws 1913, sec. 40.)

* * * * *

SEC. 2469. Authority to enter premises.

The commissioners and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this chapter, and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility shall have the right to be present at the making of such examination and tests. (Laws 1913, sec. 44b.)

SEC. 2470. Consumer may have commodity or appliance tested.

Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission. (Laws 1913, sec. 44c.)

SEC. 2471. Valuation.

The commission shall have power to ascertain the value of the property of every public utility in this State and every fact which, in its judgment, may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every public utility. (Laws 1913, sec. 45.)

SEC. 2472. System of accounts.

The commission shall have power to establish a system of accounts to be kept by the public utilities subject to its jurisdiction, or to classify said public utilities and to establish a system of accounts for each class, and to prescribe the manner in which such accounts shall be kept. * * * (Laws 1913, sec. 46.)

SEC. 2473. Depreciation account.

The commission shall have power, after hearing, to require any or all public utilities, except such as are subject to the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of accounts as the commission may prescribe. The commission may from time to time ascertain and determine and by order fix the proper and adequate rate of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed, and shall set aside the moneys so provided for out of the earnings and carry the same in a depreciation fund, and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement as the commission may prescribe. The income from investments of moneys in such public fund shall likewise be carried in such fund. (Laws 1913, sec. 47.)

ILLINOIS.

CONTENTS.

	Page.
Oil and gas.....	88
Gambling in petroleum.....	88
Plugging oil and gas wells.....	88
Oil wells near coal mine—Amendatory act.....	88

OIL AND GAS.

GAMBLING IN PETROLEUM.

LAWS 1887, P. 96.

JUNE 6, 1898.

AN ACT to suppress bucket shops and gambling in stocks, bonds, petroleum, cotton, grain, provisions or other produce.

SECTION 1. Be it enacted, etc.: That it shall be unlawful for any corporation, association, copartnership or person to keep or cause to be kept within this State any bucketshop, office, store or other place wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other produce, either on margins or otherwise, without any intention of receiving and paying for the property so bought, or of delivering the property so sold; or wherein is conducted or permitted the pretended buying or selling of such property on margins; or when the party buying any of such property, or offering to buy the same, does not intend actually to receive the same if purchased, or to deliver the same if sold. * * *

* * * * *

PLUGGING OIL AND GAS WELLS.

LAWS 1905, P. 326.

MAY 16, 1905.

AN ACT in relation to sinking, filling and operating of oil or gas wells.

NOTE: Original act was amended and is not given.

OIL WELL NEAR COAL MINE—AMENDATORY ACT.

LAWS 1911, P. 426.

JUNE 7, 1911.

AN ACT to amend an act entitled, "An act," etc. (same as section 1).

SECTION 1. Be it enacted, etc.: That an act entitled, "An act in relation to sinking, filling and operating of oil or gas wells," approved and in force May 16, 1905, be, and the same is hereby amended to read as follows:

SEC. 1. No oil or gas well shall be drilled hereafter nearer than 250 feet to any opening to a mine used as a means of ingress or egress for the persons employed therein or which is used as an air shaft.

SEC. 2. It shall be the duty of any person, firm or corporation having the custody or control of any well drilled for gas or oil, and of the owner of the land in which such well is drilled, when the drill holes penetrate a coal seam, to file in the office of the recorder of the county in which said oil or gas well is drilled, and in the office of the State Mining Board, within fifteen days after completing said well, a statement and map giving the location and depth of every well so drilled, and the county recorder shall file and enter and index same in the records of his office relating to the titles to real property.

SEC. 3. Before the casing shall be drawn from any well for the purpose of abandonment thereof, which has been drilled into any gas or oil-bearing rock, it shall be the duty of any person, firm, or corporation having the custody or control of such well at the time of such abandonment, and also the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same in the following manner: Such hole first be solidly filled from the bottom thereof to a point at least twenty feet above such gas or oil-bearing rock with sand gravel or pulverized rock, immediately on the top of which filling shall be seated a dry wood plug not less than two feet in length, having a diameter of not less than one-fourth of an inch less than the inside diameter of the casing in such well. And above such wooden plug such well shall be solidly filled for at least twenty-five feet with the above-mentioned filling material, immediately above which shall be seated another wood plug of the same kind and size as above provided, and such well shall again be solidly filled for at least twenty-five feet above such plug with such filling material. After the casing has been drawn from such well there shall immediately be seated at the point where such casing was seated a cast-iron ball or tampered wood plug at least two feet in length, the diameter of which ball or the top of which wood plug shall be greater than that of the hole below the point where such casing was seated and above such ball or plug such well shall be solidly filled to top of well with the aforesaid material.

SEC. 4. The person, firm or corporation owning or having control or custody of any such well, or the land in which any such well is situated, shall file or cause to be filed in the office of the recorder of the county in which any such well is located, within fifteen days after the same has been plugged, as provided in section 3, the affidavit of at least two persons who were present during the plugging of such well, which affidavit shall be recorded in the record books in the office of the recorder of such county, and shall set out in detail the manner in which such well was plugged and the depth of each such wood plugs and iron ball below the surface of the ground, and the record of such affidavit shall be prima facie evidence in any court of a compliance with the provisions of this act.

SEC. 5. It shall be the duty of any person, firm or corporation sinking a well in any oil or gas bearing rock, or having sunk such well and maintaining the same, to case off and keep cased off all fresh water from such well.

SEC. 6. Any person, firm or corporation violating the provisions of section 1 or failing to comply with the provisions of section 2 of this act, or who shall fail or refuse to plug a well in the time and manner provided in section 3 of this act, or shall fail or neglect to secure and file in the proper recorder's office the affidavit provided for and required in section 4 of this act, or shall fail and neglect to properly case off fresh water from such well and keep the same cased off while said well is maintained, as provided in section 5 of this act, shall be liable to a penalty of one hundred dollars (\$100) for each and every violation thereof, and the further sum of one hundred dollars (\$100) for each ten days during which such violation shall continue, and all such penalties shall be recoverable in a civil action brought in any court of competent jurisdiction in any county in which said violation occurred, brought in the name of the State of Illinois on the relation of such county, and for the use and benefit of such county, and in all such cases; if there be recovery by the State, it shall recover in addition to such penalties a reasonable attorney's fee.

SEC. 7. Whereas, an emergency exists for the immediate taking effect of this act; therefore, the same shall be in force and effect from and after its passage.

Approved June 7, 1911.

INDIANA.

CONTENTS.

	Page.
Natural gas-----	90
Burning—Methods of using--Regulations-----	90
Gas companies—Eminent domain—Voting trust-----	91
Pipes for carrying—Regulations-----	92
Supervisors—Duties and powers-----	93
Taxation—Assessment and schedule-----	95
Oil and gas wells-----	96
Companies for drilling—Incorporation—Capital stock-----	96
Conservation—Confining in pipes—Duty as to wells-----	98
Plugging wells—Method—Regulations-----	98
Pipe lines-----	100
Companies for laying pipes—Powers—Rights of way-----	100
Taxation—Schedule of property-----	104
Power to acquire real estate and rights of way-----	107

NATURAL GAS.

BURNING—METHODS OF USING—REGULATIONS.

GAS COMPANIES—EMINENT DOMAIN—VOTING TRUST.

PIPES FOR CARRYING—REGULATIONS.

SUPERVISORS—DUTIES AND POWERS.

TAXATION—ASSESSMENT AND SCHEDULE.

BURNING—METHODS OF USING—REGULATIONS.

BURNS' STATUTES 1914 (VOL. 1), P. 1302.
(ACTS 1891, P. 382; JUNE 3, 1891.)

2705 (2311). Altering gas connections.

1. It is hereby declared to be unlawful for any person in any manner whatever, to change, extend or alter, or cause to be changed, extended, or altered any service or other pipe or attachment of any kind connecting or through which natural or artificial gas is furnished from the gas mains or pipes of any person, company or corporation without first procuring from said person, company or corporation written permission to make such change, extension or alteration.

2706 (2312). Making gas connections without consent.

2. It is hereby declared to be unlawful for any person to make, or cause to be made, any connection or reconnection, with the gas mains or service pipes of any person, company, or corporation, furnishing to consumers natural or artificial gas, or to turn on or off, or in any manner interfere with any valve or stopcock, or other appliances belonging to such person, company or corporation, and connected with its service or other pipes, or to enlarge the orifice of mixers, or to use natural gas for heating purposes except through mixers, without first procuring from such person, company or corporation a written permit to turn on or off such stopcock or valve, or to make such connections or reconnection, or to enlarge the orifice of mixers, or to use gas for heating without mixers, or to interfere with the valves, stopcocks or other appliances of such person, company or corporation, as the case may be.

2707 (2313). Refusal to deliver gas mixers.

3. It is hereby declared to be unlawful for any person or persons to whom any mixer or mixers or other appliances may be or may have been loaned or rented by any person, company or corporation for the purpose of furnishing gas through the same, to retain possession or to refuse to deliver such mixer or mixers, or other appliances to the person, company or corporation entitled to the possession of the same, after such person, company or corporation shall have been entitled to the possession of the same, or to sell, loan, or in any manner dispose of the same to any person or persons, other than said person, company or corporation entitled to the possession of the same.

2708 (2314). Setting fire to gas.

4. It is hereby declared to be unlawful for any person or persons to set fire any gas escaping from wells, broken or leaking mains, pipes, valves, or other appliances used by any person, company or corporation in conveying gas to consumers, or to interfere in any manner with the wells, pipes, mains, gate boxes, valves, stopcocks or other appliances, machinery or property of any person, company or corporation engaged in furnishing gas to consumers, unless employed by or acting under the authority and direction of such person, company or corporation engaged in furnishing gas to consumers.

2709 (2315). Penalty.

5. Any person violating any provision of this act shall, upon conviction, be fined in any sum not less than five dollars nor more than one hundred dollars for such offense.

BURNS' STATUTES 1914 (VOL. 1), P. 1303.
(ACTS 1891, P. 55. JUNE 3, 1891.)

2710 (2316). Natural gas—Preventing waste.

1. The use of natural gas for illuminating purposes in what are known as flambeau lights is a wasteful and extravagant use thereof and is dangerous to the public good, and it shall therefore be unlawful for any company, corporation or person, for hire, pay or otherwise, to use natural gas for illuminating purposes in what are known as flambeau lights in cities, towns, highways or elsewhere: Provided, That nothing herein contained shall be construed as to prohibit any such company, corporation or person from the necessary use of such gas in what are known as "jumbo" burners inclosed in glass globes, or lamps or by the use of other burners of similar character so inclosed, as will consume no more gas than said "jumbo" burners.

2711 (2317). Jumbo burners—When lighted.

2. All gas lights in said "jumbo" burners and glass globes, or lamps used in all streets and public highways shall be turned off not later than 8 o'clock in the morning each day such lights or burner is used, and the same shall not be lighted between the hours of 8 o'clock a. m. and 5 o'clock p. m.

2712 (2318). Penalty.

3. Anyone violating any of the provisions of section (1) of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding twenty-five dollars, and for a second offense may be fined in any sum not exceeding two hundred dollars.

GAS COMPANIES—EMINENT DOMAIN—VOTING TRUST.

BURNS' STATUTES (VOL. 2), 1914, P. 929.
(ACTS 1907, P. 340. APRIL 10, 1907.)

5144. Gas companies, eminent domain.

1. That whenever any corporation or voluntary association, organized under the laws of the State of Indiana, or which may hereafter be incorporated there-

under for the purpose of manufacturing, piping, distributing or selling artificial or other gas for heat, light, fuel, or power or whenever any person or corporation engaged in the business of manufacturing, piping, distributing or selling artificial or other gas for heat, light, fuel or power and furnishing the same to its patrons within this State, shall desire to dig trenches and lay, maintain or repair pipes or mains outside of the limits of corporate cities or towns for the purpose of conducting and distributing gas or its products to its patrons within this State, or from its manufactory to its patrons at any point within this State, such person, corporation or voluntary association shall have the rights and powers conferred upon and granted to, and be subject to the liabilities and restrictions imposed upon corporations organized for the purpose of drilling and mining for petroleum or natural gas and marketing the same, by an act entitled "An act to authorize companies organized for the purpose of drilling and mining for petroleum or natural gas and marketing the same to appropriate and condemn real estate and declaring an emergency," approved February 20, 1889.

(ACTS 1889, P. 91. MARCH 5, 1889.)

5145 (5109). Board of trustees—Power to hold and vote stock.

1. That the subscribers to the capital of any company, corporation or voluntary association, organized for the purpose of furnishing natural or artificial gas for fuel or for illuminating purposes, * * * to the citizens of any village, town or city within the State of Indiana, may, by written stipulation at the time of making subscriptions to the capital of said company, corporation or voluntary association, agree with said company, corporation or voluntary association, and with one another, that the power of holding and voting said capital stock may be irrevocably given to a board of trustees or a majority of them, which said board of trustees may be selected in such manner as the articles of incorporation may provide.

* * * * *

PIPES FOR CARRYING—REGULATIONS.

1 R. S. 1852, P. 358.

MAY 6, 1853.

5072. Marine railways—Gas pipes.

Corporations * * * and gas light companies may lay pipes through the streets and alleys of any incorporated city or town by repairing or making good any injury done thereto.

ACTS 1883, P. 17.

FEBRUARY 21, 1883.

5073. Gas * * * companies.

That any gas light * * * company in any city or town of this State shall be authorized and empowered to extend their pipes and mains beyond the corporate limits of such city or town, not to exceed a distance of five miles from the corporate limits of any such city or town for the purpose of supplying persons or corporations with gas * * *, and any such company shall be authorized and empowered to furnish and supply gas * * * to any persons or corporations residing or located within five miles of the corporate limits of any such city or town.

BURNS' STATUTES 1914 (VOL. 4), P. 541.

(ACTS 1891, P. 89. MARCH 4, 1891.)

9060 (7507). Pipes for carrying—Pressure.

1. That any person or persons, firm, company or corporation engaged in drilling for, piping, transporting, using or selling natural gas may transport or conduct the same through sound wrought or cast-iron castings, and pipes

tested to at least four hundred pounds pressure to the square inch: Provided, such gas shall not be transported through pipes at a pressure exceeding three hundred pounds per square inch: Provided, That the provisions of this act shall not affect the costs in any pending litigation. (As amended, acts 1903, p. 110.)

9061 (7509). Penalty.

3. Any person or persons, firm, company, or corporation violating any of the provisions of this act shall be fined in any sum not less than one thousand dollars ~~or~~ more than ten thousand dollars, and may be enjoined from conveying and transporting natural gas through pipes otherwise than in this act provided: Provided, That nothing in this section shall operate to prevent the use of nitro-glycerine or other explosives for shooting any well or wells from which the gas is procured.

SUPERVISOR—DUTIES AND POWERS.

BURNS' STATUTES 1914 (VOL. 4), P. 539.

CHAPTER III.

(LAWS 1891, P. 379. MARCH 9, 1891.)

9056 (7504). Natural gas supervisor.

1. That the office of natural gas supervisor is hereby established, and within thirty days after the taking effect of this act the State geologist of Indiana shall appoint a skilled and suitable person, who has a practical knowledge of geology and natural gas, and who is not directly or indirectly interested in piping or selling natural gas, as natural gas supervisor of the State of Indiana. Such supervisor shall serve for a term of four years, and until his successor is appointed and qualified, and in case a vacancy occurs in the office of natural gas supervisor from any cause, the State geologist shall fill said vacancy by appointment as herein prescribed: Provided, however, The State geologist shall have power to remove such supervisor at any time for violation or neglect of duty. Such supervisor shall receive an annual salary of twelve hundred dollars, and the further sum of six hundred dollars for traveling and other expenses, and an annual appropriation of eighteen hundred dollars is hereby made out of any moneys in the State treasury not otherwise appropriated for the salary and expenses of such supervisor. The State geologist shall issue to such natural gas supervisor a certificate of appointment, and said supervisor shall, within ten days thereafter, make and execute a bond in the sum of one thousand dollars, payable to the State of Indiana, with his oath of office endorsed thereon, which bond shall be for the faithful performance of duty, and shall be approved by and filed with the secretary of state. Such supervisor, when he has qualified according to law, shall devote all his time to the business of his office, and he shall work at all times under the direction of the State geologist. He shall make personal inspection of all the gas wells of the State, so far as practicable, and shall see that every precaution is taken to insure the health and safety of workmen engaged in operating gas wells and laying mains and pipes, and of those who, in any manner, use gas for mechanical, manufacturing, domestic or other purposes. He shall see that all the provisions of law pertaining to the drilling of wells and the piping and consumption of natural gas are faithfully carried out, and that the penalties of law are strictly enforced against any person or persons who violates the same, and promptly report all violations of law to the attorney general of the State. He shall collect and tabulate in his annual report to the State geologist, which shall be made on the second Monday in January of each year and published in the report of the State geologist, the following facts: The number of gas wells,

with location; a record of the geological strata passed through in drilling wells, depth at which salt water is reached in the various wells, and the height to which it rises; the volume of gas produced by each well, so far as it can be ascertained, and also the initial or rock pressure of the same; the increase or decrease in pressure of the various wells, so far as it can be ascertained, and also the increase or decrease in volume of gas produced; the number of miles of mains laid for the transportation of gas, and capacity and cost of the same; the amount of capital invested in the gas industry, and the number of persons employed in the same; the cost of gas as fuel at the various points at which it is used; the amount of capital invested in manufactories located on account of natural gas, and the number of the same, together with the amount and kind of products and number of employees, and such other facts and information as the State geologist may require.

9057 (7505). Duties.

2. It shall be the duty of the natural gas supervisor to inspect all natural gas pipe lines in this State, at least once in each year, and as often as may be necessary, or whenever he may be directed by the State geologist; and he shall have the power to condemn any pipes or portions of lines that he may deem unsafe or dangerous to life or property. And any person or persons using, or causing to be used, any pipe line or portions thereof after the same has been condemned, shall be guilty of a misdemeanor, and upon conviction shall be fined in any court having jurisdiction of misdemeanors, in any sum not exceeding one hundred dollars; and any person or persons in this State owning natural gas wells or natural gas pipe lines, or who controls the same, who refuses to allow the same to be inspected by the natural gas supervisor, upon conviction shall be fined in any sum not exceeding fifty dollars: Provided, further, That whenever any responsible person shall file with such gas supervisor an affidavit charging the owner or owners of such gas plant or wells, or any person using the same, or their employees, with the violation of any of the laws regulating the use of natural gas, and particularly specifying the violations complained of, it shall be the duty of such supervisor to examine and inquire into the alleged violation of the law as set forth in the affidavit, and if he finds the facts as charged it shall be his duty to see that the law is complied with.

9058 (7505a). Leakage, repairing.

1. That it shall be, and is hereby made the duty of the natural gas supervisor of the State of Indiana, upon the discovery of any leak in any pipe line for transportation of natural gas, or in any machinery, apparatus, appliance or device used in the regulation or distribution thereof, to forthwith notify, in writing, the owner or superintendent of said pipe line, machinery, apparatus, appliance or device, to have the same repaired within two days from the time of receipt of said notice. In case such leak has not been repaired within two days from the time of receiving such notice it shall be the duty of said natural gas supervisor to make such repairs as may in his judgment be necessary to stop said leak; and such natural gas supervisor shall have a lien upon said pipe line and all wells with which the same may be connected, for the cost of making such repairs, for the enforcement of which, with all costs of suit, and a reasonable attorney's fee, an action may be maintained by him in any court of competent jurisdiction; and the judgment so obtained shall be collectible without relief from valuation or appraisement laws of the State. In case of any pipe line, machinery, apparatus, appliance or device, owned by a corporation, partnership, or by a nonresident of or absentee from the State of Indiana, the notice herein provided may be served upon any person in charge of such pipe line.

* * * * *

TAXATION—ASSESSMENT AND SCHEDULES.

ACTS 1891, P. 199.

MARCH 6, 1891.

10166. Gas * * * companies.

The personal property of gas and coke companies, natural gas companies, * * * shall be listed and assessed in the township, town, or city where the principal works are located; the mains, pipes, and wires of such companies laid in or along roads, streets or alleys shall be listed as personal property in the township, city or town where the same are laid or placed.

* * * * *

10233. Statement under oath.

Every * * * gas * * * and other associations incorporated under the laws of this State (other than railroad companies and those heretofore specifically designated) shall, by its president or other proper accounting officer, between the first day of March and the fifteenth day of May of the current year, in addition to the other property required by this act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares in which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the actual value of the shares of stock.

Fifth. The total amount of indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all tangible property.

Seventh. The difference in value between all tangible property and the capital stock.

Eighth. The name and value of each franchise or privilege owned or enjoyed by such corporation.

Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the auditor of State. In case of the failure or refusal to make report, such corporation shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the fifteenth day of May, to be sued and recovered in any proper form of action in the name of the State of Indiana, on the relation of the prosecuting attorney, such penalty when collected, to be paid into the county treasury. And such prosecuting attorney in every case of conviction shall be allowed a docket fee of ten dollars to be taxed as costs in such action. (As amended, acts 1903, p. 49.)

10234. Schedule.

Such statement shall be scheduled by the assessor and such schedule, with the statement so scheduled, shall be returned by the assessor to the county auditor. The auditor shall annually on the meeting of the county board of review, lay before said board the schedule and statements herein required to be returned to him, and said board shall value and assess the capital stock and all franchises and privileges of such companies or associations in the manner provided in this act, and the said auditor shall compute and extend the taxes for all purposes on the respective amounts so assessed, the same as may be levied on other property in such towns, cities or other localities in which such companies or associations are located. In all cases where the capital stock of any such corporation exceeds in value that of the tangible property listed for taxation, then such capital stock shall be subject to taxation upon such excess of value;

where no tangible property is returned or found, and the capital stock has a value, it shall be assessed for its true cash value. But where the capital stock, or any part thereof, is invested in tangible property returned for taxation, such capital stock shall not be assessed to the extent that is so invested. Every franchise or privilege of any such corporation shall likewise be assessed at its true cash value. Where the full value of any franchise is represented by the capital stock listed for taxation, then such franchise shall not itself be taxed; but in all cases where the franchise is of greater value than the capital stock, then the franchise shall be assessed at its full cash value, and the capital stock in such case shall not be assessed.

10235. Failure—Duty of auditor of State.

In case of a failure or refusal of the person or persons, joint-stock associations, companies or corporations, their officers, agents or employees specified in the preceding section to make and return the statements and reports therein provided for the auditor of State shall make out such returns, statements and valuations from the best information he can obtain, and for that purpose he shall have power to summon and examine, under oath, any person whom he may believe to have a knowledge thereof. And he shall add to such valuation twenty-five per centum thereon.

OIL AND GAS WELLS.

COMPANIES FOR DRILLING—INCORPORATION—CAPITAL STOCK.

CONSERVATION—CONFINING IN PIPES—DUTY AS TO WELLS.

PLUGGING WELLS—METHOD—REGULATIONS.

COMPANIES FOR DRILLING—INCORPORATION—CAPITAL STOCK.

BURNS' STATUTES, 1914, P. 625.

(ACTS 1901, P. 289. MARCH 9, 1901.)

4286 (4583). Articles of association.

1. That any number of persons, not less than three (3), may voluntarily associate themselves by written articles of association, signed and acknowledged by each person who may be a member at the time of organization, specifying:

First. The corporate name of such association, which shall not be the same or similar to the name of any other association incorporated in this State.

Second. The amount of the capital stock of the same, if such association is organized for pecuniary profit, and the number of shares (if any) into which the same shall be divided, with the amount of each share, which shall not exceed one hundred dollars (\$100).

Third. The object of the association, with the proposed plan of doing business fully set out.

Fourth. The names and places of residence of each incorporating member.

Fifth. The principal place of business of such association.

Sixth. The term of existence of such association, which, if organized for pecuniary profit, shall not exceed fifty (50) years.

Seventh. A description of the corporate seal; and

Eighth. The manner of election or appointment of all directors and officers who are to manage the business and prudential concerns of any such association.

Ninth. The number of trustees, directors or managers who shall manage the affairs of the association, together with the names of those who shall manage such affairs for the first year.

4287 (4584). Purposes:

2. That such association may be formed for one only of the following purposes: * * *

* * * * *

4302 (4593). Gas and oil wells.

11. To organize associations for the purpose of buying, holding, and selling real estate, collecting rents and soliciting and writing insurance in the manner fully stated in such articles: Provided, That voluntary associations organized under this act for investment or developing purposes, in counties containing a city having a population of more than 100,000, according to the last preceding United States census, in addition to the power to buy, hold, sell or rent real estate and collect the rents, shall also have the right to bore for gas or oil or to mine and sell coal or rock or other minerals, and to pipe or transport the same into said city. * * * (As amended, acts 1903, p. 403.)

* * * * *

4304 (4595). Oil and gas wells.

13. To organize companies for the purpose of sinking and operating oil and gas wells, and of selling the products of such wells.

BURNS' STATUTES, 1914, P. 925.

(ACTS 1889, P. 38. FEBRUARY 23, 1889.)

5134 (5099). "Mining" includes gas wells.

1. That it was and is the intent and meaning of said word "mining," as used in said chapter (ch. 35, R. S., 1881), to cover and include the sinking, drilling, boring and operating wells for petroleum and natural gas.

5135 (5100). Existing companies legalized.

2. All companies heretofore organized for the purpose of drilling, sinking, and operating wells for the production and sale of natural gas and petroleum, where the capital stock does not exceed two million of dollars, are and shall be deemed to be valid companies and corporations under and subject to all the liabilities and with all the rights and powers conferred by the provisions of said chapter thirty-five (35).

5136 (5101). Subscriptions and contracts legalized.

3. All subscriptions to the stock or capital of any such company, corporation or association, and all contracts made with them, and all bonds, notes, mortgages, certificates or other forms of indebtedness heretofore or hereafter incurred, entered into or issued by such company, corporation or association shall be and (are) held to be valid and binding upon said company, corporation or association.

5137 (5102). Capital stock limited.

4. That the capital stock of any company, corporation or association to carry on exclusively the business of mining, drilling, sinking and operating wells for petroleum and natural gas, or selling the same, or manufacturing petroleum and other minerals into gas for fuel and light, which company, corporation or association is or shall hereafter be incorporated under said chapter thirty-five (35) of the revised statutes of Indiana, shall not exceed two millions of dollars: Provided, That no suits now pending or the rights of the parties litigant thereto, shall be affected by the provisions of this act. (As amended, acts 1903, p. 227.)

CONSERVATION—CONFINING IN PIPES—DUTY AS TO WELLS.

BURNS' STATUTES, 1914 (VOL. 4), P. 542.
(ACTS 1893, P. 300. MAY 18, 1893.)

9062 (7510). To be confined in pipes.

1. That it shall be unlawful for any person, firm or corporation having possession or control of any natural gas or oil well, whether as a contractor, owner, lessee, agent or manager, to allow or permit the flow of gas or oil from any such well to escape into the open air, without being confined within such well or proper pipes, or other safe receptacle for a longer period than two days next after gas or oil shall have been struck in such well. And thereafter all such gas or oil shall be safely and securely confined in such well pipes or other safe and proper receptacles. Any person, firm or corporation violating any of the provisions of this section shall be fined in any sum not less than fifty dollars, nor more than two hundred dollars, and for any second or subsequent violation of this section he shall be fined in any sum not less than two hundred dollars, nor more than five hundred dollars. (As amended, acts 1913, p. 66.)

9063 (7513). Civil liability.

4. Whenever any person or corporation in possession or control of any well in which natural gas or oil has been found shall fail to comply with the provisions of this act, any person or corporation lawfully in possession of lands situate adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situate and take possession of such well from which gas or oil is allowed to escape in violation of the provisions of section one of this act, and pack and tube such well and shut in and secure the flow of gas or oil, and maintain a civil action in any court of competent jurisdiction in this State against the owner, lessee, agent or manager of said well, and each of them jointly and severally to recover the cost and expense of such tubing and packing, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided by section three of this act.

9064 (7514). Recovery of expense of plugging.

5. Whenever any person or corporation shall abandon or cease to operate any natural gas or oil well, and shall fail to comply with the provisions of section two of this act, any person or corporation lawfully in possession of lands adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situated and take possession of such well, and plug and fill the same in the manner provided by section two of this act, and may maintain a civil action in any court of competent jurisdiction of this State against the person, persons or corporations so failing, jointly and severally, to recover the costs and expense of such plugging and filling, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided by section three of this act.

PLUGGING WELLS—METHOD—REGULATIONS.

BURNS' STATUTES, 1914 (VOL. 4), P. 543.
(ACTS 1909, P. 234. MARCH 5, 1909.)

9065. Plugging abandoned wells.

1. That before the casing shall be drawn from any well drilled into gas or oil-bearing rock for the purpose of abandoning the same, it shall be the duty of any person, firm or corporation having the custody of such well, or having charge of removing the casing therefrom for the purpose of abandoning the same, at the time of such abandonment, to properly and securely stop and plug each of said wells so abandoned in the following manner: Such hole shall first be solidly filled from the bottom thereof to a

point at least twenty-five (25) feet above such gas or oil-bearing rock with sand, gravel or pulverized rock, on the top of which filling shall be seated a dry pine wood plug not less than two (2) feet long and having a diameter of one-fourth of an inch less than the inside diameter of the casing in such well; above such wooden plug such well shall be solidly filled for at least twenty-five (25) feet with the above-mentioned filling material; immediately above this shall be seated another wooden plug of the same kind and size as above provided, and such well shall again be solidly filled for at least twenty-five (25) feet above said second plug with such filling material. After the casing has been drawn from such well there shall immediately be seated at the point in said well where such casing was seated a cast-iron ball, the diameter of which ball shall be greater than that of the hole below the point where such casing was seated, and above such ball such well shall again be solidly filled with the above-mentioned filling material for a distance of fifty (50) feet. Any person, firm or corporation owning or having charge or supervision of any well which has been drilled into gas or oil-bearing rock, or having charge or control of removing the drive pipe or casing from any such well, and from which the drive pipe and casing or the drive pipe alone has been or shall be pulled, leaving therein the tubing, casing, or both, shall give notice to the State natural-gas supervision (supervisor), and under the supervision and direction of said supervisor, or one of his assistants, shall plug such tubing, where such tubing only remains in such well, and shall fill from the bottom up not less than three hundred (300) feet with cement and clean sand, one part Portland cement to four parts of sand, and where the casing and tubing remains in any such well, such well shall be filled on the packer with not less than fifty (50) feet of Portland cement and sand, and if there be no such packer, with not less than one hundred (100) feet of Portland cement and sand in the proportions hereinbefore indicated, and in all cases where the drive pipe and casing or either the drive pipe or casing are removed from any such well and the tubing is left therein said tubing shall be plugged as herein provided, and if any part of the tubing, drilling stem, or other substance prevent the plugging of any such well or wells as hereinbefore provided, such well or wells shall be filled to a point within twenty-five (25) feet of the top part of said tubing, drill stem, or substance with sand, gravel or crushed stone, and shall thereupon be filled to a point twenty-five (25) feet above such part of tubing, drill stem, or substance with Portland cement and sand, all proportioned as above provided.

9066. Notice to supervisor, fee.

2. Any person, firm, or corporation, before proceeding to plug any such well so drilled into any gas or oil-bearing rock, or to pull the casing or drive pipe therefrom, shall notify the State natural gas supervisor, or one of his authorized assistants, of such intention, and the time and place where such plugging is to be done, and it shall be the duty of said natural gas supervisor or his duly authorized assistants to be present in person all the time while such plugging is being done, and the same shall be done under his instructions and supervision, and such person, firm or corporation so plugging such well shall file, or cause to be filed, in the office of the recorder of the county in which any such well is located, within fifteen days after the same has been plugged, as provided in section one (1) hereof, a written statement of such State natural gas supervisor, or his duly appointed assistant, showing that such well was duly plugged under his personal supervision and instruction and in the manner herein prescribed and required, which statement shall be recorded in the miscellaneous records in the office of such recorder. And for supervising and superintending the plugging

of any such well said person, firm or corporation plugging such well or having the same done, shall pay in advance of doing any such work or plugging a fee of five dollars (\$5) to the State natural gas inspector or his assistant, to be by them turned into the State treasury.

9067. Assistants to supervisor, compensation.

3. For the purpose of enforcing the provisions of this act and supervising the plugging of said wells the State natural gas inspector shall appoint such assistants as he may deem necessary, who shall receive for their services for such supervision in the plugging of each well the sum of five dollars (\$5), to be paid by the treasurer of State each month, upon a warrant drawn by the auditor of State, upon a verified statement made by said assistants showing the wells plugged by him during such month, their location, the date when plugged and by whom the fee has been paid, and file the same with the auditor of State. Such verified statement shall, before any warrant is drawn thereon or therefor, be approved by the State natural gas supervisor, and in no event shall any such assistant be paid any such fee until the same shall have been (paid) into the treasury of State as herein provided.

9068. Salt water or oil, control.

4. It shall be the duty of every person, firm or corporation who sinks or maintains a well to the depth of the oil or salt-bearing strata to prevent the salt water or oil of such well from flowing into fresh-water strata of that or any other well.

9069. Fresh water, casing off.

It shall be the duty of any person, firm, or corporation sinking a well into any gas or oil-bearing rock, or maintaining the same after it has been sunk, to case off and keep cased off all fresh water from such well until such well has been plugged as herein provided.

9070. Powers of supervisor.

6. For the purpose of enforcing the provisions of this act the State natural gas supervisor is hereby authorized and empowered to enter upon any land at any time for the purpose of examining or testing any such well or wells for the purpose of plugging the same, and said supervisor and his assistants are hereby given police power to arrest persons found violating any of the provisions of this act.

9070a. Penalty.

7. Any person, firm or corporation violating any of the provisions of this act shall, on conviction, be fined in any sum not less than one hundred dollars nor more than one thousand dollars, to which may be added imprisonment in the county jail not to exceed six months.

PIPE LINES.

COMPANIES FOR LAYING PIPES—POWERS—RIGHTS OF WAY.

POWER TO ACQUIRE REAL ESTATE AND RIGHTS OF WAY.

TAXATION—SCHEDULE OF PROPERTY.

COMPANIES FOR LAYING PIPES—POWERS—RIGHTS OF WAY.

BURNS' STATUTES, 1914, P. 930.

(ACTS 1891, P. 301. MARCH 6, 1891.)

5148 (5112). Pipe line companies—Organization.

1. Whenever three or more persons desire to form a company to lay on, over or underneath the ground, iron pipes or tubes, to erect pumps and pump stations and tanks for storing oil, and also to erect telegraph lines along said line

or lines of pipe, and to carry on by means thereof the business of transporting and storing petroleum, they shall make, sign and acknowledge before some officer capable to take acknowledgments of deeds, a certificate in writing which shall state the corporate name adopted by the company, the object of its formation, the amount of capital stock, the term of its existence (not, however, to exceed fifty years), the number of directors and their names, who shall manage the affairs of such company for the first year, and the names of the counties in which its operations are to be carried on, and the county where its principal office shall be located, and file the same in the office of the recorder of such county, which shall be placed upon the record, and a duplicate thereof in the office of the secretary of state.

5149 (5113). When body corporate—Powers.

2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, and by their corporate name may take, hold and convey real estate necessary to carry on the operations named in such certificate.

5150 (5114). Directors—Officers.

3. The business of such company shall be managed by not less than three nor more than eleven directors, who shall be stockholders therein and residents of the United States; and a majority of the directors chosen shall be a quorum. Such directors, after one year from the organization of the company, shall be elected by the stockholders annually, and the directors thus chosen or appointed shall elect the president thereof.

* * * * *

5152 (5116). Capital stock.

5. The amount of capital stock shall be fixed by the company, but may be increased by a vote of the stockholders at any annual meeting; and in like manner any company which may have been incorporated in this State for any of the purposes contemplated in said act, with a fixed amount of limitation of capital, may increase its capital stock by a vote of the stockholders at any annual meeting, and such capital stock shall be divided into shares of not more than fifty dollars each.

5153. (5117). Transfer of stock.

6. The stock of such company shall be deemed personal estate; and, when fully paid in, shall be transferable in such manner as the by-laws may prescribe. Such company shall not use its funds in the purchase of stock in any other corporation.

5154 (5118). Payment for stock.

7. The capital stock as fixed by such company shall be paid into the treasury thereof, within eighteen months from the incorporation of the same, in such installments as the by-laws of the company assess and direct.

* * * * *

5156 (5120). Seal—May hold real estate.

9. Such company shall have a common seal and the same alter or change at pleasure. It shall have power to acquire by purchase or otherwise, hold and convey such real estate and personal estate as may be necessary and proper for the purpose of erecting and keeping in repair its lines of pipes and telegraph and tanks and buildings requisite for their operation. Said corporation may continue for a time not exceeding fifty years. Such corporation shall have power to acquire such real estate and rights of way as may be necessary for the uses and purposes herein contemplated, in the mode provided in the act approved February 20, 1889, authorizing natural gas companies to appropriate and condemn real estate as fully as if all that part of said act following the

first paragraph of the first section and excluding the seventh section were incorporated and made a part hereof.

* * * * *

5158 (5122). Liability of stockholders.

11. Every stockholder shall be liable in his individual capacity for any contract, debt or engagement of such company to an amount over and above his stock equal to the amount of par value of his stock.

BURNS' STATUTES, 1914, P. 925.

(ACTS 1889, P. 22. FEBRUARY 20, 1889.)

5138 (5103). Drilling for gas or oil—Powers.

1. That whenever any company, corporation or voluntary association incorporated under the laws of the State of Indiana, or which may hereafter be incorporated thereunder for the purpose of drilling and mining for petroleum or natural gas, or otherwise acquiring gas or petroleum wells and the products thereof, and to furnish the same to its patrons for use within this State, and by manufacture to convert the same into gas for fuel and illuminating purposes, and other articles of commerce, shall desire to dig trenches and lay pipes for the purpose of conducting gas to its patrons within this State, or conducting gas from its wells, or wells leased by it, or from its manufactory to any point within this State, such company, corporation or voluntary association shall possess the powers, be subject to the liabilities and restrictions expressed in the following:

First. To cause such examination and surveys as may be necessary to the selection of the most advantageous routes for the said trenches and pipes, and for such purposes, by their officers, agents and servants, to enter upon the lands and waters of any person; but subject to responsibility for any damages which they shall do thereto.

Second. To receive, hold and take such voluntary grants and donations of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of such trenches and pipes, but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

Third. To purchase, and by voluntary grants and donations, receive and take, and by its officers, engineers, surveyors and agents enter and acquire an easement in and upon and take possession of and use all such lands and real estate and other property as may be necessary for the construction and maintenance of the said trenches and pipes, and other accommodations necessary to accomplish the objects for which the company, corporation or voluntary association is created; but not until the compensation to be made therefor is agreed upon by the parties, or ascertained as hereinafter prescribed shall have been paid to the owner or owners thereof or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

Fourth. To locate and lay out and construct its said trenches, not exceeding one rod in width for a single pipe line, and to construct the same; said trenches and pipe lines in all cases to be laid at such depth as not to interfere with the tillage of the soil, or the existing drainage, and the soil taken from said trenches shall be returned with the top soil on top, as originally found; said company, corporation or voluntary association to have the right to enter and go upon said right of way by its officers and agents, without hindrance, for the purpose of digging said trenches and laying said pipe, inspecting, operating, and repairing the same.

Fifth. To dig its trenches, to lay its pipe lines over, across or under any stream of water, water course, road, highway or railroad, so as not to interfere

with the free use of the same, which the route thereof shall intersect, in such manner as to afford security for life or property. And whenever the board of county commissioners of the proper county shall so direct, said trenches and pipe lines may be constructed and laid along the right of way of any road or highway, but in all cases where said trenches or pipe lines shall be laid across, upon or along any gravel road, road, or highway thus intersected, said company, corporation or voluntary association shall immediately, upon the laying of any such pipe, restore the same to its former state, or in a sufficient manner not to have unnecessarily impaired its usefulness or injured its franchises.

Sixth. To purchase or acquire easements in and upon lands, and it may change the line of its said trenches and pipe lines whenever a majority of the directors shall so determine.

5139 (5104). Right of way.

2. Whenever any such company, corporation or voluntary association is unable to agree with the owner or owners about the purchase of any real estate in any county required for the construction of its trenches and the laying of the mains and connecting pipes, it shall have the right to acquire an easement in and upon the same in the manner and by the special proceedings prescribed in this act.

5140 (5105). Easement appropriated—Damages—Procedure.

3. Such company, corporation, or voluntary association is hereby authorized to enter upon any land for the purpose of examining and surveying its line for trenches and pipe lines, and may acquire an easement in and upon so much thereof as may be deemed necessary for its said trenches, not exceeding one rod in width for any single pipe line. The company, corporation or voluntary association shall forthwith deposit with the clerk of the circuit or other court of record in the county where the line lies, a description of the rights and interest intended to be appropriated, and an easement in such land, rights and interest shall belong to such company, corporation or voluntary association to use for the purpose specified, by making or tendering payment as hereinafter provided. The company, corporation or voluntary association may, by its directors, purchase any such lands, right of way or interest of the owner of such land, or in case the same is owned by a person insane or an infant, at a price to be agreed upon by the regularly constituted guardian of said insane person or infant, if the same shall be approved by the court in which the description aforesaid shall be filed, and on such agreement and approval the owner or guardian, as the case may be, shall convey the easement or right of way upon the said premises so purchased, to such company, corporation or voluntary association, and the deed when made shall be valid in law. If the company, corporation or voluntary association shall not agree with the owner of the land "or with his guardian if the owner is incapable of contracting" touching the damages sustained by such owner, such company, corporation or voluntary association shall deliver to such owner or guardian within the county a copy of such instrument of appropriation. If the owner, "or his guardian, in case such owner is incapable of contracting," be unknown or do not reside within the county, such company, corporation or voluntary association shall publish in some newspaper of general circulation in the county, for the term of three weeks, an advertisement reciting the substance of such instrument of appropriation. Upon filing such act of appropriation and the delivery of such copy or making of such publication, the circuit court or other court of record in the county where the land lies, or any judge thereof in vacation, upon the application of either party, shall appoint by warrant three disinterested freeholders of said county to appraise the damages which the owner of the land may sustain by such appropriation. Such appraisers shall be duly sworn.

They shall consider the injury which such owner may sustain by reason of such trenches and pipe lines, and shall forthwith return their assessment of damages to the clerk of such court, setting forth the value of the property taken or injury done to the property, "which they shall assess to the owner or owners separately," to be by him filed and recorded. Thereupon, said company, corporation, or voluntary association shall pay to such clerk the amount thus assessed or tender the same to the party in whose favor the damages are awarded or assessed. On making payment or tender thereof in the manner herein required, it shall be lawful for such company, corporation or voluntary association to hold the interest in said lands or material so appropriated for the uses aforesaid: Provided, first, That any person aggrieved by the action of assessment of any appraisers appointed under this act may appeal therefrom to the circuit court of their county, under the same provisions and subject to the same restrictions as provided for in case of appeals from assessments under the laws of this State for the appropriation of real estate for the rights of way of railroads, as provided by an act of the general assembly of the State of Indiana, in force May 6, 1853, and all acts amendatory thereof: And provided, further, That nothing in this act contained shall in any manner abridge or impair the rights of incorporated towns and cities by their respective councils, boards of aldermen or boards of trustees to grant to such corporations or companies the privilege to use and occupy the streets and alleys of such cities and towns for the purpose of laying mains for conveying gas to their patrons.

* * * * *

5142 (5107). Attorney for unknown parties—Powers of court.

5. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest as it deems proper, and also to appoint other commissioners in the place of any who shall die or refuse or neglect or be unable to serve, or who may leave or be absent from the State.

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POWER TO ACQUIRE REAL ESTATE AND RIGHTS OF WAY.

BURNS' STATUTES, 1914, P. 932.

(ACTS 1897, P. 263. MARCH 8, 1897.)

5159 (5122a). Oil companies acquiring lands.

1. That all companies, corporations and voluntary associations now organized under the laws of the State of Indiana, or which may hereafter be organized thereunder, for the purpose of laying on, over or underneath the ground, iron pipes or tubes, to erect pumps and pump stations and tanks for storing oil, and for the transportation of oil shall have power to acquire real estate for the use of such companies, corporations and voluntary associations in the mode and manner provided hereafter in this act.

5160 (5122b). Acquiring easement in lands.

2. Whenever any such company, corporation or voluntary association is unable to agree with the owner or owners about the purchase of any real estate in any county, desired for the construction of its trenches or the laying of the mains and the connecting of its pipe lines or on which to erect pumps and pump stations and tanks for storing oil, or on which to construct telegraph and telephone

lines, it shall have the right to acquire an easement in and upon the same for each and all the purposes above mentioned, and in the manner and by the special proceedings prescribed in this act.

5161 (5122c). Appropriation of lands—Proceedings.

3. Such companies, corporations or voluntary associations as are mentioned in section one (1) of this act, shall have the right and are hereby authorized to enter upon any land for the purpose of examining and surveying its line for trenches and pipe lines, and telegraph and telephone lines, and a location for pumps and pump stations and tanks for storing oil, and may acquire an easement in and upon so much thereof as may be deemed necessary for its said trenches, pipe lines, telegraph and telephone lines, not exceeding one rod in width for any single pipe line, and not exceeding one rod in width for any single telegraph or telephone line, and for such easement in real estate as is necessary for the location of such pumps and pump stations and tanks for storing oil. The company, corporation or voluntary association shall forthwith deposit with the clerk of the circuit court or other court of record in the county where any of said lines lie, or is constructed or proposed to be constructed, a description of the rights and interests intended to be appropriated, and an easement in such land, rights and interests shall belong to such company, corporation or voluntary association to use for the purpose specified by making or tendering payment as hereinafter provided. The company, corporation or voluntary association may, by its directors, purchase any such lands, rights of way or interest of the owner of such land, or in case the same is owned by a person insane, or an infant, at a price to be agreed upon by and between such company, corporation or voluntary association and the regularly constituted guardian of said insane person or infant, if the same shall be approved by the court in which the description aforesaid shall be filed, and on such agreement and approval, the owner or guardian, as the case may be, shall convey the easement or right of way upon the said premises so purchased to said company, corporation or voluntary association, and the deed, when made, shall be valid in law. If the company, corporation or voluntary association shall not agree with the owner of the land, or with his guardian, if the owner is incapable of contracting, touching the damages sustained by such owner, such company, corporation or voluntary association shall deliver to such owner or guardian, within the county or State, a copy of such instrument of appropriation. If the owner, or his guardian, in case such owner is incapable of contracting, be unknown or does not reside within the State, such company, corporation or voluntary association shall publish in some newspaper of general circulation in the county for the term of three weeks an advertisement reciting the substance of such instrument of appropriation. Upon filing such appropriation and the delivery of such copy, or making of such appropriation, the circuit court or other court or record in the county where the land lies, or any judge thereof in vacation, upon the application of either party, shall appoint by warrant three disinterested freeholders of said county to appraise the damages which the owner of the land may sustain by such appropriation. Such appraisers shall be duly sworn. They shall consider the injury which such owner may sustain by reason of such trenches and pipe lines, or such telegraph and telephone lines, and shall forthwith return their assessment of damages to the clerk of such court, setting forth the value of the property taken, or injury done to the property, which they shall assess to the owner or owners separately, to be by him or them filed and recorded. Thereupon such company, corporation or voluntary association shall pay to such clerk the amount thus assessed or tender the same to the party in whose favor the damages are awarded or

assessed. On making payment or tender thereof, in a manner herein required, it shall be lawful for such company, corporation or voluntary association to hold the interest in said lands or material so appropriated for the uses as aforesaid: Provided, first, That any person aggrieved by the action or assessment of any appraisers appointed under this act may appeal therefrom to the circuit court of the county by filing written exceptions in the office of the clerk of the circuit court of the county where the real estate is situated, within ten days after the filing of said award. And the court shall make such order therein at the trial of the cause, as right and justice may require, by ordering a new appraisement on good cause shown, or by assessing the damages at the trial of said cause: And provided further, That nothing in this act contained shall in any manner abridge or impair the rights of county commissioners, common council, board of aldermen, or board of trustees to grant to such companies, corporations or voluntary associations the privilege to use and occupy the highways of counties, streets and alleys of such cities and towns for the purpose of laying mains, pipe lines, and for the construction of telegraph and telephone lines for the use of such companies, corporations or voluntary associations: And provided further, That if prior to the assessment the company, corporation or voluntary association shall tender to such owner (or his guardian if he be incapable to contract) an amount equal to the award afterwards made exclusive of costs, the costs of arbitration shall be paid equally by such company and such owner or guardian. But if no tender shall be made by such company, corporation or voluntary association prior to the assessment, the entire cost of such arbitration shall be paid by such company, corporation or voluntary association: And provided, That no company, corporation or voluntary association shall have the right to condemn or take any lands or lay any pipe lines within seventy-five yards of any dwelling or barn, unless the owner shall agree in writing that the same may be placed within such distance, except when the lines of such pipes shall be along a public highway.

* * * * *

5163 (5122e). Attorney for unknown owners—Corrections—Parties.

5. The court shall appoint some competent attorney to appear for and protect the rights of any party of any interest who is unknown to and has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest as it deems proper, and also to appoint other appraisers in the place of any one who shall die, or refuse, or neglect to act or be in any way unable to serve, or who may leave or be absent from the State: And provided further, That condemnation proceedings may be commenced by either party interested for the right of way of any pipe line * * * heretofore constructed or which may be hereafter constructed by any company, corporation or voluntary association mentioned in this act.

5164 (5122f). Defective title—Correction—~~E~~xception as to wells.

6. That any time after the construction of any pipe line, telegraph line or telephone line, or after an attempt to acquire title by appraisement and assessment of damages, or otherwise, if it shall be found that the title thereto or thereby attempted to be acquired, is defective, the company, corporation or voluntary association may proceed to acquire or perfect the same by the appointment of appraisers as provided in section three of this act: Provided, That the provisions of this act shall not be construed to give any company, corporation or voluntary association the right to enter upon lands and dig or prospect

for oil, or to take any land for the purpose of digging or drilling any wells for oil, but shall be construed to give the right to take the right of way and easement heretofore mentioned for the purposes heretofore mentioned only.

* * * * *

TAXATION—SCHEDULE OF PROPERTY.

LAWS 1919, 198, P. 207.

MARCH 11, 1919.

CHAPTER 59.

AN ACT concerning taxation, repealing all laws in conflict therewith and declaring an emergency.

Be it enacted, etc.:

* * * * *

PERSONAL PROPERTY OF PUBLIC UTILITIES—WHERE ASSESSED.

SEC. 16. The personal property of gas and coke companies, natural gas companies, * * * shall be listed and assessed in the township, town or city where the principal works are located, except as hereinafter provided; the mains, pipes and wires of such companies laid in or along roads, streets or alleys) shall be listed as personal property in the township, city or town where the same are laid or placed.

* * * * *

PIPE LINE COMPANIES.

SEC. 87. Every joint-stock association, company, copartnership, or association, whether incorporated under the laws of this State, or of any other State, or of any foreign nation, which owns a pipe line or lines wholly or in part situate in the State of Indiana, whether such pipe lines be used for the transmission of oil, natural or artificial gas, whether the same is for illuminating or fuel purposes, or for any other purpose, * * * shall be deemed and held to be a pipe line company, and every such pipe line company shall annually, between the first day of March and the first day of April, make out and deliver to the State board of tax commissioners a statement, verified by the officer or agent of such company making such statement with reference to the first day of March next preceding showing:

First. The total capital stock or shares if (of) such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of March next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The dividends which have been paid during the year last preceding the making of said report on said stock; the amount of the surplus or reserve fund of said joint stock association, company, copartnership or corporation, and its net income from its business during the year last preceding the filing of said report.

Sixth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Seventh. The specific real estate, together with the permanent improvement thereon, owned by said association, company, copartnership or corporation

situate outside the State of Indiana and not directly used in the conduct of the business, with specific description of each such piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Eighth. All mortgages and where recorded and the names and residences of holders of the same upon the whole or any part of its property, together with the debts and amounts thereof.

Ninth. A schedule of all other property owned by said associations, companies, copartnerships or corporations other than real estate, located without the State of Indiana and the assessed value thereof, if any; also a schedule of all other property including the length, size and value of lines, tanks and capacities thereof, and all other property owned by said associations, companies, copartnerships or corporations, other than real estate, as set out in clause sixth of this section located within the State of Indiana with the location and value thereof.

Tenth. Any other information that the State board of tax commissioners may reasonably require to aid in determining valuation.

* * * * *

TIME OF FILING ANNUAL REPORTS.

Sec. 105. From and after January 1st, 1919, every * * * pipe line company, * * * shall make out and deliver to the State board of tax commissioners the statement required by law of such company with reference to the first day of March, and such statement shall be filed annually between the first day of March and the first day of April.

* * * * *

BURNS' STATUTES, 1914 (VOL. 4), P. 972.
(ACTS 1893, P. 374. MARCH 6, 1893.)

10222 (8481a). Pipe line companies:

4½. Every joint stock association, company, copartnership, or association, whether incorporated under the laws of this State or of any other State, or of any foreign nation, which owns a pipe line or lines not wholly situate in any one county in the State of Indiana, whether such pipe lines be used for the transmission of oil, natural or artificial gas, whether the same be for illuminating or fuel purposes, or for any other purpose, or steam for heat or power, or for the transmission of power, or for the transmission of articles by pneumatic or other power, shall be deemed and held to be a pipe line company, and every such pipe line company shall annually, between the first day of April and the first day of June, make out and deliver to the auditor of State a statement, verified by the officer or agent of such company making such statement with reference to the first day of April next preceding, showing:

First. The total capital stock or shares of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvement thereon, owned by said association, company, copartnership or corporation situate outside the State of Indiana and not directly used in the conduct of the business, with specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages and where recorded and the names and residences of the holders of the same upon the whole or any part of its property, together with the debts and amounts thereof.

Eighth. A schedule of all other property owned by said associations, companies, copartnerships or corporations other than real estate, located without the State of Indiana, and the assessed value thereof, if any; also a schedule of all other property, including the length, size and value of lines, tanks and capacities thereof, and all other property owned by said associations, companies, copartnerships or corporations, other than real estate, as set out in clause fifth of this section, located within the State of Indiana, with the location and value thereof.

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CONTENTS.

	Page.
Liens.....	110
Leaseholds—Oil and gas.....	110
Natural gas	111
Furnishing for light and heat	111
Illuminating purposes—Method of burning.....	112
Inspection of wells and lines.....	113
Sale and distribution—Regulations.....	116
Transportation—Pressure—Increasing flow.....	116
Oil and gas leases.....	117
Record—Release on forfeiture.....	117
Oil and gas wells.....	119
Control and regulation.....	119
Location of wells.....	120
Plugging on abandonment.....	120
Oil royalties	122
Speculative securities	122
Pipe lines	122
Right of way.....	122
Transportation of oil	123
Public utilities	125
Oil, gas, and pipe-line companies—Regulations.....	125
Taxation	130
Oil and gas leases	130
Pipe-line companies	131

LIENS.

LEASEHOLDS—OIL AND GAS.

GENERAL STATUTES 1915, P. 981.

CHAPTER 45.

ARTICLE I.

* * * * *

AN ACT relating to liens for labor and materials furnished to owners of leaseholds for oil and gas purposes and for materials and labor for the construction of oil and gas pipe lines.

SEC. 4996. Lien of contractor on gas and oil leasehold or pipe line for labor and material.

SEC. 28. Any person, corporation or copartnership who shall under contract, express or implied, with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipe line or oil pipe line, or with the trustee or agent of such owner, who shall perform labor or furnish material, machinery and oil-well supplies used in the digging, drilling, torpedoing, completing, operating or repairing of any oil or gas well, or who shall furnish any oil-well supplies or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing or repairing of any gas

well, shall have a lien upon the whole of such leasehold or oil pipe line or gas pipe line, or lease for oil and gas purposes, the building and appurtenances, and upon the material and supplies so furnished, and upon said oil and gas well for which they were furnished, and upon all the other oil wells, fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished and labor performed. Such lien shall be preferred to all other liens or incumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil pipe line or gas pipe line, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies. (Laws 1909, ch. 159, sec. 1; March 31.)

SEC. 4997. Lien of subcontractor or material man on gas and oil leasehold or pipe line.

SEC. 29. Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontractor with a contractor, or who as an artisan or day laborer in the employ of such contractor, and who shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipe line or any oil pipe line from the same tank and in the same manner and to the same extent as the original contractor for the amount due him for such labor, as provided in section 1 of this act. (Laws 1909, ch. 159, sec. 2; March 31.)

SEC. 4998. Enforcement of lien for labor and material.

SEC. 30. The liens herein created shall be enforced in the same manner, and notice of the same shall be given in the same manner, and the material man's statement or the lien of any laborer herein mentioned shall be filed in the same manner as provided for in sections 2 and 3 of chapter 168, session laws of Kansas for the year 1899, and all actions brought for the purpose of enforcing any such liens shall be governed by article 27, chapter 80 of procedure civil, as provided in the general laws of Kansas for the year 1901. (Laws 1909, ch. 159, sec. 3; March 31.)

SEC. 4999. Repeal of acts in conflict.

SEC. 31. All acts and parts of acts in conflict with this act are hereby repealed. (Laws 1909, ch. 159, sec. 4; March 31.)

NATURAL GAS.

FURNISHING FOR LIGHT AND HEAT.

ILLUMINATING PURPOSES—METHOD OF BURNING.

INSPECTION OF WELLS AND LINES—SALE AND DISTRIBUTION.

REGULATIONS—TRANSPORTATION—PRESSURE—INCREASING FLOW.

FURNISHING FOR LIGHT AND HEAT.

GENERAL STATUTES 1915, P. 976.

CHAPTER 45.

ARTICLE I.

AN ACT authorizing the owner of lands not in an incorporated city to lay, maintain and operate natural gas pipes for the purpose of furnishing the residents of such lands with natural gas for light and fuel.

SEC. 4969. Owner of land outside of city may lay pipes for natural gas; pipes across highway; act not grant exclusive right to furnish gas.

SEC. 1. Whenever any tract of land not in an incorporated city shall be laid out in lots or other subdivisions as now required by law, the owner of such lands or his assigns is authorized to lay, maintain and operate natural gas pipes along and across the streets and other grounds dedicated by such owner to public use for the purpose of furnishing natural gas for light and fuel to the residents of said land, and for such purpose is authorized to lay, maintain, and operate natural gas pipes across any public highway: Provided, That the said pipes shall be laid under the surface of said streets, public grounds, and highways, and that said streets, grounds and highways shall be restored so as not to impair their usefulness: And provided further, That nothing herein shall be construed as granting to such owner or his assigns the exclusive right to furnish said residents with natural gas for light and fuel. (Laws 1899, ch. 143, sec. 1; February 22.)

* * * * *

SEC. 4974. Unlawful to change, injure, extend or alter pipes, without written permission.

SEC. 6. That it shall be unlawful for any person, in any manner whatsoever, to change, injure, extend, or alter, or cause to be changed, injured, extended, or altered, any surface or other pipe or attachment of any kind connecting or through which natural or artificial gas is furnished from the gas mains or pipes or any person, company or corporation, without first procuring from such person, company or corporation written permission to make such change, extension, or alteration. (Laws 1901, ch. 224, sec. 5; March 22.)

SEC. 4975. Unlawful to make connections with gas mains, interfere with valve or stopcock, without written permission.

SEC. 7. That it shall be unlawful for any person to make or cause to be made any connection or reconnection with the gas mains or surface pipes of any person, company or corporation furnishing natural gas, or to turn on or off or in any manner interfere with any valve, stopcock or other appliance belonging to such person, company or corporation and connected with its surface or other pipes, or to alter or injure the orifice of mixers, or to use natural gas for heating purposes except through mixers, without first procuring from such person, company or corporation a written permit to turn on or off such stopcock or valve, or to make such connections or reconnections, or to alter or injure the orifice of mixers, or to interfere with the valves, stopcocks or other appliances of such person, company or corporation, as the case may be. (Laws 1901, ch. 224, sec. 6; March 22.)

* * * * *

ILLUMINATING PURPOSES—METHOD OF BURNING.

GENERAL STATUTES 1915, P. 977.

CHAPTER 45.

ARTICLE I.

* * * * *

AN ACT regulating the control of natural-gas and oil wells, and to prevent waste of natural gas, altering gas connections, making gas connections without consent, setting fire to gas, and penalties therefor.

* * * * *

SEC. 4971. "Flambeau" lights prohibited; "jumbo" or similar burners not prohibited.

SEC. 3. That it shall be unlawful for any company, corporation, or person, for hire, pay or otherwise, to use natural gas for illuminating purposes in what are

known as “flambeau” lights in cities, towns, highways, or elsewhere; providing that nothing herein contained shall be so construed as to prohibit any such company, corporation or person from the necessary use of such gas in what are known as “jumbo” burners, inclosed in glass globes or lamps, or by the use of other burners of similar character so inclosed as will consume no more than said “jumbo” burners. (Laws 1901, ch. 224, sec. 2; March 22.)

SEC. 4972. Street lights, etc., to be turned off at 8 a. m. and not lighted before 5 p. m.

SEC. 4. All gaslights made through said “jumbo” burners inclosed in glass globes or lamps used in all public streets, and elsewhere outside of buildings, shall be turned off not later than 8 o'clock in the morning each day such lights or burners are used, and the same shall not be lighted between the hours of 8 o'clock a. m. and 5 o'clock p. m. (Laws 1901, ch. 224, sec. 3; March 22.)

SEC. 4973. Penalty for violating the two preceding sections.

SEC. 5. Any person, company or corporation violating any of the provisions of sections 2 and 3 of this act shall be deemed guilty of a misdemeanor, and fined in the sum of not less than fifty dollars nor more than two hundred dollars. (Laws 1901, ch. 224, sec. 4; March 22.)

* * * * *

INSPECTION OF WELLS AND LINES.

GENERAL STATUTES 1915, P. 982.

CHAPTER 45.

ARTICLE II.

COUNTY GAS INSPECTOR.

AN ACT authorizing the appointment of an inspector of natural gas, gas wells, and natural gas pipe lines by the county commissioners of the various counties in this State, and prescribing the powers, duties and compensation of such inspector respecting and regulating such gas, wells and lines, and providing for reports to be made to him by owners of gas wells and premises upon which such wells are located, and providing penalties for the violation of this act.

SEC. 5000. County commissioners may appoint “gas inspector;” qualifications and term of office; after two years board may end term without appointing successor.

SEC. 32. In each county in this State the board of the county commissioners is hereby authorized, in its discretion, to appoint a suitable and competent person, who shall not be interested privately in producing, piping, or selling natural gas, to be known and designated as the “gas inspector” of such county, who shall serve for a term of two years from the date of his appointment and qualification and until his successor shall be appointed and qualified: Provided, That said board may end said term by an order to that effect at any time after the expiration of said period of two years without appointing such successor. (Laws 1905, ch. 313, sec. 1; March 24.)

SEC. 5001. Oath and bond of “gas inspector.”

SEC. 33. He shall be required, before assuming the duties of his office, to take and subscribe an oath or affirmation that he will faithfully, impartially and to the best of his skill and ability discharge his duties, which oath or affirmation shall be filed with the county clerk of the county for which he is appointed, and within ten days after his appointment he shall file with said county clerk a good and sufficient bond to the people of the State of Kansas, with a resident surety or sureties to be approved by said county commissioners,

in the sum of three thousand dollars, conditioned for the faithful performance of his duties. (Laws 1905, ch. 313, sec. 2; March 24.)

SEC. 5002. Location and number of all wells to be reported to such inspector; gas wells to be reported within two days after completion.

SEC. 34. All persons are hereby required to report in writing, by mail or otherwise, to said inspectors, within thirty days after their appointment and qualification, the location and number of all wells in the county of such inspector belonging in whole or in part to them or which are upon premises owned in whole or in part by them, except only such wells as have already been reported to some predecessor of said inspector, and they shall also report to him in writing the number and location of each of such gas wells thereafter drilled within two days after its completion. (Laws 1905, ch. 313, sec. 3; March 24.)

SEC. 5003. Duties of such inspector to see that provisions of law are carried out and penalties enforced; report violations to county attorney and file complaint.

SEC. 35. It shall be the duty of such inspector to see that all provisions of law pertaining to the drilling for gas, the regulating of gas wells, and the piping and consumption of natural gas are faithfully carried out, and that the penalties of such laws are enforced against all violators of the same; and to that end he shall promptly report all violations of such laws that come to his knowledge to the county attorney of his county, and file a proper complaint for the prosecution of the offender. (Laws 1905, ch. 313, sec. 4; March 24.)

SEC. 5004. Inspection of gas wells and records to be kept by inspector; records kept in office of register of deeds subject to public inspection.

SEC. 36. Said inspector shall inspect all gas wells in his county. He shall measure and record, as nearly as can be ascertained, the initial rock pressure of, and also the volume of gas produced by, each of such wells. Such inspection shall be made and measurements taken and recorded at least once in each six months' period during his term of office, and at any other time or times directed by the board of county commissioners. All such records shall be entered and kept in substantially bound record books, suitably ruled, printed, indexed and arranged for that purpose, to be provided by the county and kept in the office of the register of deeds subject to public inspection. (Laws 1905, ch. 313, sec. 5; March 24.)

SEC. 5005. Duties of inspector concerning pipe lines; inspection; waste or leakage; notice; repairs made by inspector; cost of such repairs recovered with attorney's fee, etc.; penalty for permitting waste of gas.

SEC. 37. Such inspector shall also inspect all natural-gas pipe lines in his county at least once in every period of six months during his term of office, and as much oftener as may be necessary or as may be directed by the board of county commissioners, and shall test and record the pressure of the gas therein and the volume of the flow through the same, as nearly as is practicable. If he shall discover any leakage or waste of gas from any such well or pipe line he shall notify the owner thereof or his agents or servants, or some one of them, of that fact, and if such leakage or waste be not stopped within two days after such notice, it shall be and it is hereby made the duty of such inspector to take such steps and make such changes and repairs as may in his judgment be necessary to stop said waste or leakage; and he shall have a lien upon said well or pipe line and all wells with which the same may be connected for the material, labor and cost of making such repair, for the enforcement of which, with all costs of suit, and a reasonable attorney's fee, an action may be maintained by said inspector in any court of competent jurisdiction; and if gas shall be taken from any well at a rate such as to consume more than fifty per cent of its daily

production, it shall be deemed a waste within the meaning of this clause to the extent of such excess. If any owner of any such well or pipe line, shall for more than two days after the service of the notice last aforesaid fail to stop the leakage or waste by this clause prohibited, such owner, agent or servant shall be guilty of a misdemeanor, and on conviction thereof shall be fined a sum of not less than twenty-five dollars nor more than five hundred dollars for each offense, and each day that such failure continues after the expiration of the said period of two days shall constitute a separate offense. (Laws 1905, ch. 313, sec. 6; March 24.)

SEC. 5006. Persons owning natural-gas wells or pipe lines to permit inspection and to furnish facilities for making inspection, etc.

SEC. 38. No person or persons in this State owning or having control of natural-gas wells or natural-gas pipe lines shall refuse to allow the same to be inspected by the natural-gas inspector, nor shall any such person interfere with said inspector directly or indirectly in the performance of his duties as herein prescribed, and it is made the duty of all such persons to furnish said inspector reasonable facilities and opportunity to make any inspection or perform any duty hereby authorized. (Laws 1905, ch. 313, sec. 7; March 24.)

SEC. 5007. Inspector may appoint deputies; qualifications; powers and duties of deputies; liability of inspector for acts of deputies; inspector to take bond from deputies; inspector to provide himself and deputies with standard instruments and appliances.

SEC. 39. The inspector provided for in this act is hereby authorized, with the consent and approval of the board of county commissioners, to appoint and assign for duty deputies, not exceeding two in number, at such time and for such terms as in his judgment may be necessary to enable him promptly to perform all the duties of his office. Such deputies shall have the same qualifications as the inspector, and, under his direction, are empowered to perform all the duties of the inspector. Said inspector shall be liable for all acts or omissions of his deputies in the performance of their duties. Each deputy, before he enters upon the duties of his office, shall execute a bond to the inspector, with sureties to be approved by him, in the sum of one thousand dollars, which shall be filed with the inspector and shall be conditioned for the faithful performance of the duties of such deputies. The said inspector shall provide himself and deputies with proper standard instruments and appliances for use in the performance of his and their duties in making the tests and records herein designated. (Laws 1905, ch. 313, sec. 8; March 24.)

SEC. 5008. Penalty for violating provisions of act, except where specific penalty provided.

SEC. 40. Any person violating any of the foregoing provisions of this act, except those for the violation of which penalties are especially prescribed, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum of not less than twenty-five dollars nor more than five hundred dollars. (Laws 1905, ch. 313, sec. 9; March 24.)

SEC. 5009. Compensation of inspector and deputies; compensation paid by county.

SEC. 41. The compensation of such inspectors shall be five dollars per day for the time actually and necessarily consumed by them in the performance of their duties as herein prescribed, and the compensation of each deputy inspector shall be four dollars per day for each day actually and necessarily consumed by him in the performance of his duties as herein prescribed, and the same shall be paid by the county in which such service is performed, upon allowance by the board of county commissioners, as other claims against such county. (Laws 1905, ch. 313, sec. 10; March 24.)

SALE AND DISTRIBUTION—REGULATIONS.

LAWS 1919, P. 316.

MARCH 14, 1919.

CHAPTER 239.

AN ACT to regulate the sale and distribution of natural gas for domestic use and defining the powers and duties of the public utilities commission of the State of Kansas with respect thereto.

Be it enacted, etc.:

SEC. 1. Every person, firm, corporation or association engaged in the distribution and sale of natural gas for domestic use, under a franchise granted by any city having a population of 500 or more within this State, shall receive compensation for the same upon the basis of efficient and adequate service, and when such service is inefficient because of inadequate pressure the rate charged such consumers shall be graduated or reduced according to rules and regulations prescribed by the public utilities commission for the State of Kansas, as hereinafter provided.

SEC. 2. The public utilities commission for the State of Kansas is hereby empowered to establish districts within any city having a population of 500 or more where gas is distributed under any such franchise, and to require and compel the installation of regulators, pressure gauges, and other devices for determining the pressure of such gas and recording the same within such districts. The commission shall fix a standard pressure for efficient service and the price to be paid by the consumer based thereon, and shall also formulate and prescribe a method or methods for computing the amounts to be paid for gas by domestic consumers when the pressure is insufficient, based upon the standard of pressure for efficient service, and to make and prescribe and enforce such reasonable rules and regulations as may be necessary to enforce and carry out the provisions of this act.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

TRANSPORTATION—PRESSURE—INCREASING FLOW.

GENERAL STATUTES 1915, P. 978.

AN ACT to regulate the mode of procuring, transporting and using natural gas, and to provide penalties for its violation.

SEC. 4980. Transportation of gas; pressure to which pipes shall be tested.

SEC. 12. That any person or persons, firm, company or corporation engaged in drilling for, piping, transporting, using or selling natural gas may transport or conduct the same through sound wrought or cast iron or steel casings and pipes tested to at least four hundred pounds pressure to the square inch. (Laws 1905, ch. 312, sec. 1; March 8.)

SEC. 4981. Unlawful to increase natural flow of natural gas from well.

SEC. 13. It is hereby declared to be unlawful for any person or persons, firm, company or corporation to use any device for pumping, or any other artificial process or appliance that shall have the effect of increasing the natural flow of natural gas out of any well. (Laws 1905, ch. 312, sec. 2; March 8.)

SEC. 4982. Penalty for violating two preceding sections; shooting of wells not prohibited.

SEC. 14. Any person or persons, firm, company or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred dollars or more than ten thousand dollars, and may be enjoined from conveying and transporting natural gas through pipes otherwise than in this act provided: Provided,

That nothing in this section shall operate to prevent the use of nitroglycerine or other explosives for shooting any well or wells from which the gas is procured. (Laws 1905, ch. 312, sec. 3; March 8.)

OIL AND GAS LEASES.

RECORD—RELEASE ON FORFEITURE.

LAWS 1915, P. 284.

MARCH 19, 1915.

CHAPTER 228.

AN ACT relating to the record, forfeiture and surrender of oil, gas, and other mineral leases, amending section 3921 of the General Statutes of Kansas of 1909 and repealing said original section

Be it enacted, etc.:

NOTE.—The sections of the original act of April 1, 1909, and the sections of such original act as were amended by the act of March 19, 1915, are given as sections 4992-4995, inclusive, of the general statutes of 1915.

GENERAL STATUTES, 1915, P. 979.

CHAPTER 45.

ARTICLE I.

SEC. 4992. Duty of lessee to have forfeited lease released; notice by owner of land when lessee fails to have lease released; service of notice; affidavit of forfeiture; notice to register of deeds by lessee; affidavit to be recorded; effect of such proceedings.

SEC. 24. When any oil, gas or other mineral lease heretofore or hereafter given on land situated in any county of Kansas and recorded therein shall become forfeited it shall be the duty of the lessee, his successors or assigns, within sixty days from the date of the taking effect of this act, if the forfeiture occurred prior thereto, and within sixty days after the date of the forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, acknowledged and placed on record in the county where the leased land is situated without cost to the owner thereof: Provided, That, if the said lessee, his successors or assigns, shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said land may serve upon said lessee, his successors or assigns, in person or by registered letter, at his last known address, or by publication for three consecutive weeks in a newspaper of general circulation in the county where the land is situated, a notice in writing in substantially the following form:

"To _____ I, the undersigned, owner of the following described land situated in _____ county, Kansas, to wit: (description of land) upon which a lease, dated _____ day of _____, 19—, was given to _____, do hereby notify you that the terms of said lease have been broken by the owner thereof, that I hereby elect to declare and do declare the said lease forfeited and void and that, unless you do, within twenty days from this date, notify the register of deeds of said county as provided by law that said lease has not been forfeited, I will file with the said register of deeds affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same of record in the office of the register of deeds of said county within twenty days from this date.

"Dated this _____ day of _____, 19—. —."

And the owner of said land may after twenty days from the date of service, registration or first publication of said notice, file with the register of deeds

of the county where said land is situated an affidavit setting forth that the affidavit is the owner of said land; that the lessee, or his successors or assigns has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure; that the same has been forfeited and is void; and setting out in said affidavit a copy of the notice served, as above provided and the manner and time of the service thereof. If the lessee, his successors or assigns, shall within thirty days after the filing of such affidavit, give notice in writing to the register of deeds of the county where said land is located that said lease has not been forfeited and that said lessee, his successors or assigns, still claims that said lease is in full force and effect, then the said affidavit shall not be recorded but the register of deeds shall notify the owner of the land of the action of the lessee, his successors or assigns, and the owner of the land shall be entitled to the remedies now provided by law for the cancellation of such disputed lease. If the lessee, his successors, or assigns, shall not notify the register of deeds, as above provided, then the register of deeds shall record said affidavit, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the State on behalf of the lessee, his successors or assigns, against the lessor, his successors or assigns. (Laws 1909, ch. 179, sec. 1, as amended by Laws 1915, ch. 228, sec. 1 (May 22) ; March 19.)

SEC. 4993. Recording of lease to impart notice for definite term expressed, but no longer; extension of lease upon contingency; affidavit by owner of lease; effect of such affidavit.

SEC. 25. That, when an oil, gas or mineral lease is hereafter given on land situated within the State of Kansas, the recording thereof in the office of the register of deeds of the county in which the land is located shall impart notice to the public of the validity and continuance of said lease for the definite term therein expressed, but no longer: Provided, That, if such lease contains the statement of any contingency upon the happening of which the term of any such lease may be extended (such as "And as much longer as oil and gas or either are produced in paying quantities"), the owner of said lease may at any time before the expiration of the definite term of said lease file with said register of deeds an affidavit setting forth the description of the lease, that the affiant is the owner thereof and the facts showing that the required contingency has happened. This affidavit shall be recorded in full by the register of deeds, and such record together with that of the lease shall be due notice to the public of the existence and continuing validity of said lease, until the same shall be forfeited, canceled, set aside, or surrendered according to law. (Laws 1915, ch. 228, sec. 2 (May 22) ; March 19.)

SEC. 4994. Suit to obtain release of such lease; owner of land may recover two hundred dollars, all costs, reasonable attorney's fee and additional damages warranted by evidence; writs of attachment may issue.

SEC. 26. Should the owner of such lease neglect or refuse to execute a release as provided by this act, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his successor or assigns, the sum of one hundred dollars as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant. In all such actions, writs of attachment may issue as in other cases. (Laws 1909, ch. 179, sec. 2; April 1.)

SEC. 4995. Demand for release before bringing action; proof of such demand.

SEC. 27. At least twenty days before bringing the action provided for in this act, the owner of the leased land, either by himself or by his agent or attorney, shall demand of the holder of the lease (if such demand by ordinary diligence can be made in this State) that said lease be released of record. Such demand may be either written or oral. When written, a letter press or carbon or written copy thereof, when shown to be such, may be used as evidence in any court with the same force and effect as the original. (Laws 1909, ch. 179, sec. 3; April 1.)

OIL AND GAS WELLS.

CONTROL AND REGULATION.

LOCATION OF WELLS.

PLUGGING ON ABANDONMENT.

CONTROL AND REGULATION.

GENERAL STATUTES 1915, P. 977.

CHAPTER 45.

ARTICLE I.

* * * * *

AN ACT regulating the control of natural-gas and oil wells, and to prevent waste of natural gas, altering gas connections, making gas connections without consent, setting fire to gas, and penalties therefor.

* * * * *

SEC. 4970. Control and management of natural-gas and oil wells; penalty for violation of section.

SEC. 2. That it shall be unlawful for any person, firm or corporation having possession or control of any natural-gas or oil well, whether as a contractor, owner, lessee, agent, or manager, to use or permit the use of gas by direct well pressure for pumping of oil or for blowing oil out of wells, or for operating any machinery by direct well pressure of gas, or to allow or permit the flow of gas or oil from any such well to escape into the open air without being confined within such well or proper pipes or other safe receptacle for a longer period than two days after gas or oil shall have been struck in such well: Provided, That a reasonable time, not exceeding five days, shall be allowed such contractor, owner, lessee, agent, or manager, in addition to said two days, in which to place in said well the casing, tubing, packers, and other appliances necessary to properly operate the same and obtain the products therefrom; or in case such contractor, owner, lessee, agent or manager shall not desire to operate such well, to securely inclose the same, so as to prevent the escape of oil or gas therefrom, and thereafter all such gas or oil shall be safely and securely confined in such well, pipes, or other proper receptacles: And provided further, That the provisions of this section shall not be construed to apply to the escape of gas or oil during continuous drilling. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined in the sum not less than fifty dollars nor more than two hundred dollar, or by imprisonment in the county jail for not less than thirty days nor more than six months, and each day that the violation continues shall constitute a separate offense. (Laws 1901, ch. 224, sec. 1; March 22.)

* * * * *

SEC. 4976. Unlawful to set fire to escaping gas from wells, broken mains, etc., or to interfere with wells, machinery, etc.

SEC. 8. That it shall be unlawful for any person or persons to set fire to any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person, company, or corporation in conveying gas, or to interfere in any manner with the wells, machinery, or property of any person, company, or corporation engaged in drilling for natural gas or in furnishing the same, unless employed by or acting under the authority or direction of such person, company or corporation engaged in so furnishing gas. (Laws 1901, ch. 224, sec. 7; March 22.)

SEC. 4977. Penalty for violating three preceding sections; liability to company, etc.

SEC. 9. Any person violating any of the provisions of sections 5, 6, and 7 of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars, and shall be liable to the said person, company, or corporation whose property was so changed, injured, altered or destroyed, in a civil action for the amount of damages sustained, together with all the costs in the case. (Laws 1901, ch. 224, sec. 8; March 22.)

* * * * *

LOCATION OF WELLS.

GENERAL STATUTES 1915, P. 978.

AN ACT prohibiting the drilling and operating of oil and gas wells within certain limits from the rights of way of steam and electric railway lines, and fixing penalties for the violation thereof.

SEC. 4978. Unlawful to drill or operate gas or oil wells near steam or electric line of railway.

SEC. 10. It shall be unlawful for any person, firm, company or corporation in this State to drill or operate gas or oil wells within one hundred feet of the center of the right of way of any steam or electric line of railway. (Laws 1905, ch. 210, sec. 1; June 8.)

SEC. 4979. Penalty for violating preceding section.

SEC. 11. Any person, firm, company or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred nor more than one thousand dollars. (Laws 1905, ch. 210, sec. 2; June 8.)

* * * * *

PLUGGING ON ABANDONMENT.

GENERAL STATUTES 1915, P. 978.

AN ACT regulating the casing of oil and gas wells, and the mode of plugging the same when abandoned.

SEC. 4983. Provisions for casing gas or oil wells.

SEC. 15. That the owner or operator of any well put down for the purpose of exploring for and producing oil or gas shall, before drilling into the oil or gas-bearing rock, incase the well with good and sufficient wrought-iron oil-well casing, and in such manner as to exclude all surface or fresh water from the lower part of such well, and from penetrating the oil or gas-bearing rock. Should any well be put down through the first into the lower oil or gas-bearing rock, the same shall be cased in such manner as will exclude all fresh or salt water from both upper and lower oil or gas-bearing rocks penetrated. (Laws 1891, ch. 151, sec. 1; March 20.)

SEC. 4984. Provisions for filling and plugging wells before drawing the casing.

SEC. 16. The owner of any well, when about to abandon or cease operating the same, for the purpose of excluding all fresh or salt water from penetrating the oil or gas-bearing rock or rocks, and before drawing the casing, shall fill the well with sand or rock sediment to the depth of two feet below the top of each oil or gas-bearing rock, and drive therein a round, seasoned wooden plug at least two feet in length, and in diameter equal to the full diameter of the well below the casing, and immediately upon drawing the casing shall fill in on top of such plug with sand or rock sediment to the depth of five feet, and again drive into the well a round wooden plug three feet in length, the lower end tapering to a point, and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well below the point at which it is driven; and after such plug has been driven the well shall be filled with sand or rock sediment to the depth of twenty feet. (Laws 1891, ch. 151, sec. 2; March 20.)

SEC. 4985. Penalty for violating two preceding sections.

SEC. 17. Any owner or operator or person who shall violate the provisions of the preceding sections of this act shall be guilty of a misdemeanor, and shall be fined in the sum of five hundred dollars for each and every offense, which fine when collected shall be paid to the school fund of the county in which the well is situated. (Laws 1891, ch. 151, sec. 3; March 20.)

GENERAL STATUTES 1915, P. 979.

AN ACT in relation to the plugging of abandoned oil and gas wells, providing for the appointment of an inspector, outlining the duties of such inspector and providing penalties for the violation thereof.

SEC. 4986. Appointment of person by county commissioners to personally direct and supervise plugging of oil or gas wells sought to be plugged; qualifications and term of office of such person.

SEC. 18. For the purpose of carrying out the provisions of section 3919, of the General Statutes of 1909, the board of county commissioners of each county in the State of Kansas in which oil or gas wells have been drilled or may hereafter be drilled may appoint some suitable person who has had at least two years' experience in drilling and operating oil or gas wells and who is not directly interested in the production of gas or oil to personally direct and supervise the plugging of oil or gas wells sought to be plugged. Whose term of service shall be at option of the county commissioners, but who shall serve until his successor is appointed. (Laws 1913, ch. 201, sec. 1; April 30.)

SEC. 4987. Inspector of oil and gas wells to be notified when well to be plugged; duty to repair to place and supervise plugging.

SEC. 19. Whenever it shall become necessary to plug any well as required by law the lessee or operator shall notify in writing the inspector of oil and gas wells at his office or residence whereupon he shall repair as soon as possible to said well and supervise the plugging thereof. (Laws 1913, ch. 201, sec. 2, April 30.)

SEC. 4988. Lessee or operator to furnish inspector verified record showing true log of such well.

SEC. 20. Upon the arrival of the said inspector at the wells to be plugged the lessee or operator shall furnish to the inspector a record of the drilling of said well verified under oath showing a true log of such well. (Laws 1913, ch. 201, sec. 3; April 30.)

SEC. 4989. Penalty for violation of this act.

SEC. 21. Any person, corporation or copartnership violating any of the provisions of this act shall upon conviction thereof be deemed guilty of a mis-

demeanor and upon conviction be fined in a sum of not more than \$500 or by imprisonment in the county jail not more than six months or by both such fine and imprisonment. (Laws 1913, ch. 201, sec. 4; April 30.)

SEC. 4990. Compensation of oil well inspector; cost of inspection paid by owner or operator.

SEC. 22. The oil well inspector shall receive a sum of \$5 per well and actual traveling expenses while in performance of his duties of inspection, provided also that the cost of said inspection shall be paid by the owner or operator of said wells. (Laws 1913, ch. 201, sec. 5; April 30.)

SEC. 4991. Repeal of acts in conflict.

SEC. 23. All acts or parts of acts in conflict with this act are hereby repealed. (Laws 1913, ch. 201, sec. 6; April 30.)

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OIL ROYALTIES.

SPECULATIVE SECURITIES.

LAWS 1919, P. 207.

MARCH 11, 1919.

CHAPTER 153.

AN ACT amending sections 9458 * * * of the General Statutes of 1915, and repealing said original section 9458. * * *

Be it enacted, etc.:

SEC. 1. That section 9458 of the General Statutes of 1915 be, and the same is hereby amended, so as to read as follows:

SEC. 9458. * * * The term "speculative securities" as used in this act shall be taken to mean and include: * * * (7) any undivided interest or certificate of participation based on any undivided interest in oil royalties or in oil leases, where the value of such undivided interest or certificate of participation materially depends on proposed or promised future development: Provided, That this shall not apply to undivided interests or certificates based upon undivided interests in oil royalties or in oil leases where the interest or certificate based upon such interest offered for sale or sold to any one purchaser exceeds one-twenty-fifth of the whole royalty or oil lease.

* * * * *

PIPE LINES.

RIGHT OF WAY.

TRANSPORTATION OF OIL.

RIGHT OF WAY.

GENERAL STATUTES 1915, P. 313.

CHAPTER 18.

ARTICLE 19.

* * * * *

SEC. 1486. General powers of board of commissioners.

SEC. 454. The board of commissioners shall have the care, management, and control of the city and its property and finances; and shall have power to enact ordinances for all the purposes named and provided for in this article not

repugnant to the constitution and laws of this State, and to alter, amend, modify and repeal such ordinances. (Laws 1907, ch. 114, sec. 27; May 27.)

* * * * *

SEC. 1519. Grant right for pipe lines, conduits—Right to mine coal, etc.

SEC. 487. To grant to any person or corporation the use of the streets, alleys, or public grounds for the purpose of laying water, steam, or gas pipes, * * * or other use, to be used in furnishing or supplying such city and its inhabitants with water, light, heat, power, or service, and grant permits or make contracts with persons or corporations to mine coal, oil or gas within the limits of said city, under such restrictions as shall protect public and private property and insure proper remuneration for such grants: Provided, That no franchise, right of way, or privilege of any character whatever shall be granted for a longer period than twenty years. (Laws 1907, ch. 114, sec. 60; May 27.)

* * * * *

TRANSPORTATION OF OIL.

GENERAL STATUTES 1915, P. 988.

CHAPTER 45.

ARTICLE 4.

AN ACT relating to the transportation of oil by means of pipe lines.

SEC. 5035. Pipe lines declared common carriers; conveyance of oil to be made under restrictions of this act.

SEC. 67. All pipe lines laid, built or maintained for the conveyance of crude oil within the State of Kansas are hereby declared to be common carriers, and said conveyance of said oil shall be in the manner and under the restrictions in this act provided. (Laws 1905, ch. 315, sec. 1; February 28.)

SEC. 5036. Receptacles to be provided for receiving oil for transportation and for storing same until delivery; duty to receive and transport oil; certificate to be issued showing quantity and specific gravity; application valid only for amount ready for delivery.

SEC. 68. It shall be the duty of every person, firm, association or corporation operating under such pipe line to provide suitable and necessary receptacles for receiving such oil for transportation and for storage at the place of delivery until the same can be reasonably removed by the consignee, and shall be liable therefore from the time the same is delivered for transportation until a reasonable time after the same has been transported to the place of consignment and ready for delivery to the consignee. It shall be the duty of every such person, firm, association or corporation to receive and forward such oil as shall be offered for shipment in the order of application therefor, upon the applicant's complying with the rules herein provided for as to delivery and payment for such transportation. Such common carrier shall issue to the shipper a certificate showing the actual quantity and specific gravity thereof; but no application for such transportation shall be valid beyond or for a greater quantity than the applicant has ready for delivery at the time of making such application. (Laws 1905, ch. 315, sec. 2; February 28.)

SEC. 5037. Charges for transportation of oil through pipe line.

SEC. 69. It shall be unlawful for any such person, firm, association or corporation to charge for the transportation of such crude oil through its line in excess of the following rates for each barrel of forty-two gallons transported: Six miles and less, five cents; over six miles and not more than fifteen miles,

six cents; over fifteen miles and not more than forty miles, seven cents; over forty miles and not more than eighty miles, eight cents; over eighty miles and not more than one hundred miles, ten cents; over one hundred miles and not more than one hundred and fifty miles, fifteen cents; over one hundred and fifty miles and not more than two hundred miles, twenty cents; over two hundred miles and not more than two hundred and fifty miles, twenty-three cents; over two hundred and fifty miles and not more than three hundred miles, twenty-five cents. (Laws 1905, ch. 315, sec. 3; February 28.)

SEC. 5038. Control by board of railroad commissioners; rules and regulations; fixing of rates; procedure for testing such rates in the courts; rates fixed by such board supersede rates prescribed by preceding section.

SEC. 70. The State board of railroad commissioners shall have the general supervision and control over all such persons, firms, associations or corporations in the performance of said business, and shall prescribe reasonable rules for the conduct thereof, which rules, when prescribed and delivered in writing to any such person, firm, association or corporation, shall be printed and posted up in a convenient, accessible and conspicuous place at each office, station or place of business where such oil is received or delivered. The State board of railroad commissioners is hereby authorized to prescribe reasonable maximum rates, not exceeding the rates set forth in section 3 hereof, which shall be charged for the transportation of such oil, which rate shall be binding on every such person, firm, association or corporation after its publication in the official State paper: Provided, The reasonableness of such rules may be tested by proceedings therefor in any court of competent jurisdiction in this State, and such court shall, upon hearing the same, make such order as shall be proper, and such order may be reviewed by the supreme court as other civil proceedings, regardless of sum or value involved: Provided, Before beginning such proceedings in court to test such matters, such person, firm, association or corporation shall execute a bond to the State of Kansas in such reasonable sum as the judge of the court in which such matter is brought shall order, conditioned that the person, firm, association or corporation making such application will promptly pay to any shipper the difference between the rate received for transporting oil and the rate finally ordered by such court. When such maximum rates shall be fixed by the State board of railroad commissioners, the rates prescribed in section 3 of this act shall cease to be of force, and the rates so fixed by the State board of railroad commissioners shall govern, as in this section provided. (Laws 1905, ch. 315, sec. 4; February 28.)

SEC. 5039. Liability for failure or refusal to accept and transport oil up to capacity of pipe line or to obey rules established by board of railway commissioners; revocation of charter of corporation so failing or refusing.

SEC. 71. Any such person, firm, association or corporation which shall fail or refuse to accept, transport and deliver oil when offered, up to the full capacity of such pipe line, at rates not to exceed those provided for by this act, or shall fail, neglect or refuse to obey any rule so established by the State board of railroad commissioners, shall be liable to the person injured by such failure or refusal in the sum of five hundred dollars liquidated damage, together with reasonable attorney's fees, to be fixed by the court, in case suit shall be brought therefor; such liquidated damages and attorney's fees to be recovered in any court of competent jurisdiction; and in case of any corporation so refusing or failing, the charter board is hereby authorized to revoke the charter or permit to do business in this State of such corporation. (Laws 1905, ch. 315, sec. 5; February 28.)

PUBLIC UTILITIES.

OIL, GAS, AND PIPE LINE COMPANIES—REGULATIONS.

GENERAL STATUTES 1915, P. 1646.

CHAPTER 97.

PUBLIC UTILITIES COMMISSION.

AN ACT relating to public utilities and common carriers, being an act creating the public utilities commission for the State of Kansas, prescribing its powers and duties and providing for the regulation and control of public utilities and common carriers, and providing penalties for the violation of the provisions of this act, and repealing original sections 7063, 7064, 7065, and 7066 of the General Statutes of Kansas of 1909.

NOTE.—The sections relating directly to the duties of oil and gas and pipe line companies only are given.

SEC. 8327. Board of railroad commissioners constituted and created public utilities commission; power, authority, and jurisdiction to supervise and control public utilities and common carriers.

SEC. 1. The board of railroad commissioners of the State of Kansas is hereby constituted and created a public utilities commission for the State of Kansas, and such commission is given full power, authority and jurisdiction to supervise and control the public utilities and all common carriers, as hereinafter defined, doing business in the State of Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. (Laws 1911, ch. 238, sec. 1; May 22.)

SEC. 8328. Laws relating to railroad commissioners adopted; powers, duties, authority and jurisdiction of railroad commissioners imposed and conferred upon public utilities commission.

SEC. 2. All laws relating to the powers, duties, authority and jurisdiction of the board of railroad commissioners of this State are hereby adopted, and all powers, duties, authority and jurisdiction by said laws imposed and conferred upon the said board of railroad commissioners, relating to common carriers, are hereby imposed and conferred upon the commission created under the provisions of this act. (Laws 1911, ch. 238, sec. 2; May 22.)

SEC. 8329. "Public utility," definition; * * * control of utilities operated wholly or principally within any city.

SEC. 3. The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant, generating machinery, or any part thereof, for the * * * conveyance of oil and gas through pipe lines in or through any part of the state, except pipe lines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil. * * * (Laws 1911, ch. 238, sec. 3; May 22.)

SEC. 8330. "Common carriers," definition.

SEC. 4. The term "common carriers," as used in this act, shall include all * * * pipe line companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of * * * property within this State. (Laws 1911, ch. 238, sec. 4; May 22.)

* * * * *

SEC. 8336. Commission may adopt rules and regulations to govern proceedings; confer with officers of other States or of the United States.

SEC. 9. The commission shall have power to adopt reasonable and proper rules and regulations to govern its proceedings, including the assessment and taxation of costs on any complaint provided for in section 33 hereof, and to regulate the mode and manner of all investigations, tests, audits, inspections, and hearings not specifically provided for herein. The commission may confer with officers of other States and officers of the United States on any matter pertaining to their official duties. (Laws 1911, ch. 238, sec. 9; May 22.)

SEC. 8337. Service required of common carriers and public utilities governed by this act; rates, joint rates, fares, tolls, charges; discriminatory or preferential rates declared void; establishment of joint rates, etc.

SEC. 10. Every common carrier and public utility governed by the provisions of this act shall be required to furnish reasonably efficient and sufficient service, joint service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such public utility or common carrier and to establish just and reasonable rates, joint rates, fares, tolls, charges and exactions and to make just and reasonable rules, classifications, and regulations; and every unjust or unreasonable discriminatory or unduly preferential rule or regulation, classification, rate, joint rate, fare, toll or charge demanded, exacted or received is prohibited and hereby declared to be unlawful and void, and the public utilities commission shall have the power, after notice and hearing of the interested parties, to require any common carriers and all public utilities governed by the provisions of this act to establish and maintain just and reasonable joint rates wherever the same are reasonably necessary to be put in, in order to maintain reasonably sufficient and efficient service from such public utilities and common carriers. (Laws 1911, ch. 238, sec. 10; May 22.)

SEC. 8338. Public utilities and common carriers to publish and file schedules, with commission; furnish commission with rules, regulations, contracts; commission to prescribe rules and regulations for printing and filing of schedules, tariffs.

SEC. 11. Every public utility and every common carrier doing business in Kansas, over which the public utilities commission have control, shall publish and file with the public utilities commission copies of all schedules of rates, joint rates, tolls, fares, charges, classifications and divisions of rates affecting Kansas traffic, either State or interstate, and shall furnish said commission with copies of all rules, regulations and contracts between common carriers or public utilities pertaining to any and all services to be rendered by such public utility or common carrier. The public utilities commission shall have power to prescribe reasonable rules and regulations regarding the printing and filing of all schedules, tariffs, and classifications of all rates, joint rates, tolls, fares, charges and all rules and regulations of such public utilities and common carriers. (Laws 1911, ch. 238, sec. 11; May 22.)

SEC. 8339. Common carrier or public utility not to charge a greater or less compensation than specified in schedules; exceptions where different rate may be charged.

SEC. 12. No common carrier or public utility governed by the provisions of this act shall, knowingly or wilfully, charge, demand, collect or receive a greater or less compensation for the same class of service performed by it within the State, or for any service in connection therewith, than is specified in the printed schedules or classifications, including schedules of joint rates; or demand, collect or receive any rate, joint rate, toll, fare or charge not specified

in such schedule or classification: Provided, That rates different from those specified in the printed schedule or classification of rates may be charged by any public utility, * * * by agreement with the customer, in cases of charity, emergency, festivity or public entertainment: Provided, That any utility governed by the provisions of this act may grant to the officers, employees and agents of such utilities free or reduced rates or service upon like terms and in the same manner as is now provided by law relating to common carriers. (Laws 1911, ch. 238, sec. 12; May 22.)

SEC. 8340. Duty of commission to investigate rates, joint rates, rules and regulations; substitution of reasonable for unreasonable preferential charges; commission may establish reasonable concentration, commodity, transit or other special rates.

SEC. 13. It shall be the duty of the commission, either upon complaint or upon its own initiative, to investigate all rates, joint rates, fares, tolls, charges and exactions, classifications or schedules of rates, or joint rates and rules and regulations, and if after full hearing and investigation the commission shall find that such rates, joint rates, fares, tolls, charges or exactions, classifications or schedules of rates or joint rates, or rules and regulations, are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have power to fix and order substituted therefor such rate or rates, fares, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as shall be just and reasonable. If upon any investigation it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient, insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this act or of the orders of this commission, or if it be found that any service is inadequate or that any reasonable service can not be obtained, the commission shall have power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such charges in such regulations, measurements, practices, service or acts as shall be just and reasonable. Whenever, in the judgment of the public utilities commission, public necessity and convenience require, the commission shall have power to establish just and reasonable concentration, commodity, transit or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all uses of a like kind of service under similar circumstances and conditions. (Laws 1911, ch. 238, sec. 13; May 22.)

* * * * *

SEC. 8345. Time when order, regulations, practices, fixed by commission shall be in effect; expiration of thirty days prima facie reasonable, unless changed by commission or court proceedings.

SEC. 18. All orders, regulations, practices, services, rates, fares, charges, classifications, tolls, and joint rates fixed by the commission shall be in force and effect on and after thirty days from the making thereof and expiration of thirty days after service aforesaid, shall be prima facie reasonable unless, or until, changed or modified by the commission or in pursuance of proceedings instituted in court as provided in this act. (Laws 1911, ch. 238, sec. 18; May 22.)

SEC. 8346. Findings, rates, joint rates, fares, regulations, practices, fixed and established by commission to be in full force and effect unless stayed.

SEC. 19. All findings, rates, joint rates, fares, tolls, charges, rules, regulations, classifications, and schedules fixed and established by the public utilities commission shall be in full force and effect, and all regulations, practices, services,

and acts prescribed or required by the public utilities commission to be done or carried into effect unless otherwise found and determined or stayed by a court of competent jurisdiction as hereinafter provided. (Laws 1911, ch. 238, sec. 19; May 22.)

SEC. 8347. Change of rate, joint rate, toll, charge, classification, regulation, by public utility or common carrier; schedule of changes to be filed; change not made without consent of commission; when change to take effect; tariffs, schedules to be filed in every station, office or depot of such public utility or common carrier.

SEC. 20. Whenever any common carrier or public utility governed by the provisions of this act shall desire to make any change in any rate, joint rate, toll, charge, or classification or schedule of charges, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, such public utility or common carrier shall file with the public utilities commission, a schedule showing the changes desired to be made and put in force by such public utility or common carrier, and such changes shall be plainly indicated by proper reference marks in amendments or supplements to existing tariffs, schedules, or classifications, or in new issues thereof. No change shall be made in any rate, toll, charge, or classification or schedule of charges, joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission, and within thirty days after such changes have been authorized by said public utilities commission, then copies of all tariffs, schedules, and classifications, and all rules and regulations, shall be filed in every station, office, or depot of every such public utility and every common carrier in this State, for public inspection. (Laws 1911, ch. 238, sec. 20; May 22.)

* * * * *

SEC. 8350. Public utilities to furnish to commission accounts, reports, and information required by commission; matters to be shown in such accounts, reports, and information.

SEC. 23. Each public utility governed by the provisions of this act shall furnish to the commission, in such form and at such times as the commission shall require, such accounts, reports, and information as shown in itemized detail: (1) The depreciation per unit; (2) the salaries and wages, separately, per unit; (3) legal expenses per unit; (4) taxes and rentals, separately, per unit; (5) the quantity and value of material used per unit; (6) the receipts from residuals, by-products, services, or other sales, separately, per unit; (7) the total and net cost per unit; (8) the gross and net profit per unit; (9) the dividends and interest per unit; (10) surplus or reserve per unit; (11) the prices per unit paid by consumers; and, in addition, such other items, whether of a nature similar to those hereinbefore enumerated or otherwise, as the commission may prescribe in order to show completely and in detail either the operation of the public utility or common carrier furnishing the unit of its product or service to the public. (Laws 1911, ch. 238, sec. 23; May 22.)

SEC. 8351. Common carriers and public utilities to make sworn annual reports to commission; time for filing such reports; matters to be shown in detail in such reports; other information required by commission; extension of time for filing report; forfeiture for failure to file such reports within time prescribed.

SEC. 24. Each common carrier and all public utilities governed by the provisions of this act now or hereafter authorized to do business in this State shall,

on or before the 15th day of September, 1912, and on or before the same day in each year thereafter, make and transmit to the public utilities commission, at its office in Topeka, Kansas, a full and true statement, under oath, of the proper officers of such corporation, of the affairs of such public utility or common carrier, for the period ending on the 30th day of June preceding. Such annual reports shall show in detail the amount of the capital stock issued, the amounts paid therefor, and the manner of payment for same; the dividends paid; the surplus fund, if any, and the number of stockholders; the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class, the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of the business and from all sources; the operating and other expenses; the balance of profit and loss, and a complete exhibit of the financial operations of such common carrier and public utility, each year, including an annual balance sheet. Such report shall also contain such information in relation to rates, and regulations concerning fares, freights, agreements, arrangements, and contracts affecting the same, as the commission may require. Said detailed reports shall contain all the required statistics for the period of twelve months, ending on the 30th day of June of each year, and shall be made under oath, and filed with the commission at Topeka, on or before the 15th day of September then next following, unless an additional time shall be granted in any case by the commissioners; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file such annual reports within the time above specified, or within the time extended by the commission for making and filing the same, such party shall forfeit to the State of Kansas the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto. (Laws 1911, ch. 238, sec. 24; May 22.)

* * * * *

SEC. 8359. Common carrier or public utility not to transact business in this State until certificate obtained from commission permitting transaction of such business; section not applicable to common carrier or public utility transacting business when act took effect.

SEC. 31. No common carrier or public utility governed by the provisions of this act shall transact business in the State of Kansas until it shall have obtained a certificate from the public utilities commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this State. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this State. (Laws 1911, ch. 238, sec. 31; May 22.)

* * * * *

SEC. 8371. Public utilities commission may apply to Interstate Commerce Commission for relief from interstate rates, joint rates, fares, which are unreasonable, discriminatory, preferential, etc.

SEC. 43. If any interstate rate, joint rate, fare, toll, charge, rule, or regulation, classification, or schedule of rates, joint rates, fares, or tolls, is found to be unjust, unreasonable, excessive, unjustly discriminatory, or unduly preferential, or in violation of, the interstate commerce law, or in conflict with the rules, orders, or regulations of the Interstate Commerce Commission, the public utilities

commission may apply by petition or other proper method to the Interstate Commerce Commission for relief. (Laws 1911, ch. 238, sec. 43; May 22.)

* * * * *

TAXATION.

OIL AND GAS LEASES—PIPE LINE COMPANIES.

OIL AND GAS LEASES.

LAWS 1917, P. 476.

MARCH 8, 1917.

CHAPTER 323.

AN ACT relating to assessment and taxation of oil and gas properties.

Be it enacted, etc.:

SEC. 1. That for the purpose of valuation and taxation all oil and gas leases and all oil and gas wells, producing or capable of producing oil or gas in paying quantities, together with all casing, tubing, or other material therein, and all other equipment and material used in operating the oil or gas wells are hereby declared to be personal property and shall be assessed and taxed as such.

SEC. 2. That in valuing for taxation, oil or gas properties consisting of one or more leases and oil or gas wells, there shall, in addition to the value of all oil or gas well material in or upon the leasehold properties, be made such valuation of the oil or gas wells as would make a reasonable and fair value of the whole property: *Provided*, That such portion of the valuation of the oil or gas wells as represents the lessor's interest, or royalty interest, therein shall be assessed to the owner thereof and the remaining portion or working interest therein shall be assessed to the owner of the lease, together with the other property assessed in connection therewith.

SEC. 3. That in determining the value of oil and gas wells or properties the assessor shall take into consideration the age of the wells, the quality of oil or gas being produced therefrom, the nearness of the wells to market, the cost of operation, the character, extent and permanency of the market, the probable life of the wells, the quantity of oil or gas produced from the wells, the number of wells being operated, and such other facts as may be known by the assessor to affect the value of the property.

SEC. 4. When any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas shall refuse or neglect to make and deliver to the county assessor of every county wherein the property to be assessed is located, a full and complete statement relative to said property as required by blank forms prepared for the purpose by the tax commission to elicit the information necessary to fix the valuation of the property as herein provided, such assessor shall list the property and shall from any information obtainable assess the same at its full value.

SEC. 5. That the assessor at any time shall have the right and power to examine the books and accounts of any person, company or association owning oil and gas leases or engaged in operating for oil and gas in order to verify the statement made by such person, company or association, and if from such examination or other information he finds such statement or any material part thereof wilfully false he must assess the property in the same manner as if no statement had been made and delivered.

SEC. 6. The statement required herein shall be made under oath and any person knowingly or wilfully swearing to any false statement contained there-

In, shall be guilty of perjury and shall be prosecuted and punished by law as in other cases of perjury.

SEC. 7. That this act shall take effect and be in force from and after its publication in the official State paper.

PIPE LINE COMPANIES.

LAWS 1919, P. 425.

MARCH 7, 1919.

CHAPTER 304.

AN ACT concerning assessment and taxation and to specially provide for the assessment of the property of * * * pipe-line * * * companies and repealing sections 11184-11195, inclusive of the General Statutes of 1915.

Be it enacted, etc.:

SEC. 1. That for purposes of assessment and taxation any person or persons, or any joint-stock association or corporation, wherever organized or incorporated, engaged in the business * * * of transporting gas or oil in pipes or pipe lines through or in this State, or owning pipes or pipe lines for such purpose in this State, shall be deemed a pipe-line company. * * *

SEC. 2. Every * * * pipe-line * * * company defined in section 1 of this act doing business in this State shall annually, between the 1st and 20th days of March, under the oath of the person constituting such company, if a person, or under the oath of the president, secretary, treasurer, superintendent or chief officer in this State of such association or corporation, make and file with the tax commission, in such form as the commission may prescribe, a statement containing the following facts: (1) The name of the company. (2) The nature of the company, whether a person or persons, or association, or corporation, and under the laws of what State or country organized. (3) The location of its principal office. (4) The name and post-office address of the president, secretary, auditor, treasurer and superintendent or general manager. (5) The name and post-office address of the chief officer or managing agent of the company in Kansas. (6) The par value of its shares of stock. (7) A detailed statement of the real estate owned by the company in Kansas, where situated, and the value thereof as assessed for taxation. (8) The whole length of its lines within the State of Kansas, which lines shall include what said * * * pipe-line * * * company controls and uses under lease or otherwise, and the number of miles of line in each county; also a full and correct inventory of all other personal property owned by the company in Kansas on the 1st day of March, where situated, and the value thereof. (9) The total gross receipts for the year ending the 1st day of January, from whatever source derived, and the portion of same derived within the State of Kansas. (10) The amount of operating expenses for the year ending on the 1st day of January, itemized or divided as may be required by the commission. (11) The amount paid in dividends and the rate per cent of such dividends. (12) Every pipe-line company shall also state the length, size and value of its line or lines, its tanks and the capacity thereof, and all other property owned by said company, or under its management or control, as owner, lessee, or otherwise, and the number of miles or parts of a mile in each county, and the size thereof, giving the diameter of the pipe, together with such other information as to the character, location and value of its property of any kind as the tax commission may require. Blanks for making the above statement shall be prepared and on application furnished any company by the tax commission.

SEC. 3. The tax commission as created by section 3 of chapter 408 of the session laws of 1907 is hereby constituted a State board of appraisers, and the secretary of the tax commission shall keep full minutes of the proceedings of said board.

SEC. 4. Said tax commission shall meet at its office annually on the second Monday in April, as the State board of appraisers, for the purpose of assessing the property of * * * pipe-line * * * companies in Kansas, except as hereinafter provided. When so convened the board shall proceed to ascertain and assess the value of all the property of said * * * pipe-line * * * companies in Kansas, and may adjourn its meeting from time to time as may become necessary.

SEC. 5. In case any company fails or refuses to make the statement as required by law or to furnish the board any information as requested, the board shall inform itself as best it may on the matters necessary to be known in order to discharge its duties with respect to the assessment of the property of such company.

SEC. 6. At any time after the meeting of the board on the second Monday in April, and before the assessment of the property of any company is determined, any company or person interested shall have the right, on written application, to appear before the board and be heard in the matter of the valuation of the property of any company for taxation.

SEC. 7. After the assessment of the property of any company for taxation by the board, and before the certification by the tax commission of the apportioned valuation to the several counties, as provided in section 9 of this act, the board may, on the application of any interested person or company, or on its own motion, correct the assessment of valuation of the property of any company in such manner as will in its judgment make the valuation thereof just and equal.

SEC. 8. In case any company required to file a statement under the provisions of section 2 fails to make and file such statement on or before the 20th day of March, unless for good cause shown the time for making said return shall be extended or any part thereof be waived by the tax commission, such company shall be subject to a penalty of not to exceed five hundred dollars, and an additional penalty of not to exceed one hundred dollars for each day's omission after the 20th day of March to file such statement; said penalty to be recovered by action in the name of the State, and on collection to be paid into the State treasury to the credit of the State school fund: Provided, That for good cause shown the tax commission may extend the time in which to make and file such statement. The attorney general, on request of the tax commission, shall institute such action against any company so delinquent, in the district court of any county having jurisdiction. The State board of appraisers shall have power to require the president, secretary, treasurer, receiver, superintendent or managing agent of any * * * pipe-line * * * company to attend before the board and bring with him for the inspection of the board any books or papers of such company in his possession, custody or control, and to testify under oath touching any matter relating to the business, property, money or credits, and the value thereof, of such company. Any member of the board is authorized and empowered to administer such oath. Any officer, employee, or agent of such company who shall refuse to attend before the board when required to do so, or who shall refuse to bring with him and submit for the inspection of the board any books or papers of such company in his possession, custody or control, or who shall refuse to answer any questions put to him by the board or by any member thereof touching the business, property, moneys, and credits, and

the values thereof, of such company, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both.

SEC. 9. After the completion of the assessment by the State board of appraisers the amount of the assessment shall be apportioned by the tax commission among the several counties, townships, cities, school districts, and other taxing districts through or into which the lines of said * * * pipe-line * * * companies run in the following manner: First, there shall be assigned locally the values assessed against all real estate and all personal property which had a fixed situs on March 1 of the current tax year, * * * and the remaining part of the assessment, if any, shall be distributed among the several taxing districts, so that each district shall be apportioned such a part thereof as is proportionate to the length of the lines owned by the company in the said taxing districts respectively.

SEC. 10. The tax commission shall, on or before the 30th day of May, certify to the county clerk of each county the amount apportioned to his county. The county clerk, as soon as he shall receive the returns of such assessments from the tax commission, shall certify to the proper officers of the different school districts, cities and townships in his county in or through which any portion of the property of the * * * pipe-line * * * company is located, the amount of such assessments that is to be placed on the tax roll for the benefit of such school district, city or township, and he shall at the proper time place such assessments on the proper tax roll of his county, subject to the same per cent of levy for different purposes as is laid upon other property.

SEC. 11. The assessment of the property of the companies hereinbefore defined which is situated entirely within the limits of a single county shall be assessed by the county assessor annually. Between the 1st and 31st days of March annually the owner or managing officer of each such company shall make and file with the county assessor of the county in which the property of such company is situated a statement giving such information and in such form as may be prescribed by the tax commission. It shall be the duty of the county assessor to apportion the value of all * * * oil pipe lines, gas pipe lines * * * to the various taxing districts in which such property is found in proportion to the amount of such property as found by him in such districts respectively.

SEC. 12. This act shall not apply to or include any municipal corporation engaged in the business of owning, maintaining, or operating any of the various lines of business hereinbefore enumerated and described.

SEC. 13. Sections 11184, 11185, 11186, 11187, 11188, 11189, 11190, 11191, 11192, 11193, 11194 and 11195 of the general statutes of 1915 are hereby repealed.

SEC. 14. This act shall take effect and be in force from and after its publication in the statute book.

KENTUCKY.

CONTENTS.

	Page.
Oil-----	134
Production and taxation-----	134
Warehouses-----	137
Oil and gas-----	137
Leases—Lands of infants and insane-----	137
Leasehold privileges—Taxation-----	138
License tax—Procedure-----	139
Oil and gas wells-----	140
Plugging—Duty and penalty-----	140
Pipe lines-----	142
Rights of way—Condemnation-----	142

OIL.

PRODUCTION AND TAXATION.

WAREHOUSES.

PRODUCTION AND TAXATION.

ACTS 1917. P. 40.

MAY 2, 1917.

(SPECIAL SESSION.)

CHAPTER 9.

AN ACT imposing a license or franchise on any person, firm, corporation or association engaged in the production of oil in this State and authorizing counties also to impose such tax for road, school and county purposes; providing methods of determining the amount of tax due and prescribing penalties for a violation of the provisions of the act.

* * * * *

Be it enacted, etc.:

NOTE.—Amended and reenacted. See following act.

ACTS 1918, P. 540.

MARCH 29, 1918.

CHAPTER 122.

AN ACT to amend and reenact chapter 9 of the acts of the extraordinary session of the general assembly of 1917, which act imposes a license or franchise on any person, firm, corporation, or association engaged in the production of crude petroleum in this State, and authorizing county officials to impose such tax for roads, schools and county purposes; providing methods of determining the amount of tax due and prescribing the manner of payment of State tax and imposing penalties for the violation of the act.

Be it enacted, etc.:

* * * * *

NOTE.—This amendatory act is given in Kentucky Statutes, 1915 (1918 Supplement), as sections 4223c-1 to 4223c-9, as follows:

STATUTES, 1915 (1918 SUPPLEMENT), VOL. 3, P. 829.

SUBDIVISION IIIB.

OIL PRODUCTION.

SEC. 4223c-1. Tax on oil production—distribution of—by whom levied.

Every person, firm, corporation or association producing crude petroleum oil in this State shall, in lieu of all other taxes on the wells producing said

crude petroleum, annually pay a tax equal to 1 per centum of the market value of all crude petroleum so produced, and such tax shall be for State purposes, and, in addition, any county in the State may impose a like tax for road purposes, county purposes or school purposes not to exceed one-half of one per centum of the market value of all crude petroleum produced in such county, and the fiscal court of any county may levy said tax for county purposes and shall determine what fund or funds shall receive the taxes when collected, and, when crude petroleum is produced in any separate taxing district in a county, the fiscal court shall equitably distribute such taxes between the county and such taxing district. (March 29, 1918, ch. 122, p. 540, sec. 1.)

SEC. 4223c-2. Notice to carriers—Transporter to collect tax—County levying tax to notify tax commission.

Any county imposing the tax provided in section 4223c-1 hereof shall immediately after the levy of such tax give notice thereof to each transporter of crude petroleum registered in said county, and the transporter of said crude petroleum shall, from and after the first day of the month immediately following such notice, proceed as hereinafter provided, to collect such county tax, and shall pay the same to the sheriff of such county in the manner and at the time payment of such taxes shall be required to be made to the State tax commissioner. Each county imposing such tax shall also, upon the fixing of the levy, certify the same to the State tax commission, which shall make the assessment for such county tax in the same manner and at the same value as provided for the State tax, which shall be certified to such county for collection. (March 29, 1918, ch. 122, p. 540, sec. 2.)

SEC. 4223c-3. When tax attaches.

The tax hereby provided for shall be imposed and attach when the crude petroleum is first transported from the tanks or other receptacles located at the place of production. (Id., sec. 3.)

SEC. 4223c-4. Transporters of oil required to register—Clerk to certify to commission.

Every person, firm, corporation, or association required to report under section 4223c-5 of this act shall register as a transporter of crude petroleum in the clerk's office in each county of this State, in which such business is carried on by such transporter of crude petroleum, in a book which the State tax commission shall provide therefor, showing the name, residence and place of business of such transporter of crude petroleum, and it shall be the duty of the county clerk of each county to immediately certify to the State tax commission a copy of each registration as made. (Id., sec. 4.)

SEC. 4223c-5. Transporters of oil, defined—Reports to be made by—Blanks for.

Every person, firm, corporation or association engaged in the transportation of crude petroleum in the State from the tanks or other receptacles located at the place of production in the State shall, for the purposes of this act, be considered a transporter of crude petroleum, and every such transporter of crude petroleum shall make a monthly verified report to the State tax commission, on or before the 20th day of the month succeeding the month in which the crude petroleum is so received for transportation, showing the quantity of each kind or quality of all crude petroleum so received from each county in the State and the market value of such crude petroleum on the first business day after the tenth day of the month in which such report is made and such report shall show any sales of such crude petroleum so received, in which event it shall show the quantity of crude petroleum in each sale, the date of each sale, and the market price of such crude petroleum on each date of sale for such preceding month, and said report shall be made upon blanks furnished and prescribed by the State tax commission. (Id., sec. 5.)

SEC. 4223c-6. State tax commission to assess value of oil—Notice to transporters—Certified to county clerk—Sheriff to collect—Basis of assessment—Transportation charges.

The State tax commission shall, upon receiving the reports provided for in section 4223c-5 hereof, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum so reported for each month, and on or before the last day of the month in which such reports are required to be made notify each transporter of crude petroleum so reporting of such assessment, and certify such assessment to the county clerk of each county which has reported the levy of the county tax provided for in section 4223c-2 for record, and such county clerk shall immediately deliver a copy thereof to the sheriff of such county for the collection of such county tax. The transporter so notified of the assessment shall have until the twentieth day of the month following such notice, in which to be heard by the State tax commission on any objection to such assessment, and the assessment shall become final on such twentieth day of the month and the tax be due and payable on that day. The State tax commission shall make the assessment of the value of the crude petroleum so reported by each transporter of crude petroleum as follows:

Where the report shows no sale of crude petroleum during the month covered by such report, then the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed as the assessed value of all crude petroleum covered by such report.

But where the report shows sales of crude petroleum during the month covered by such report, if it shows that all crude petroleum so reported has been sold, then the market price of such crude petroleum on each day of such sale or sales; but if such report shows that any part of the crude petroleum so date of sale, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessment or assessments made on such sale or sales; but if such report shows that any part of the crude petroleum so reported remains unsold, then as to such portion remaining unsold the market price of the crude petroleum on the first business day after said tenth day of the month following the month covered by such report shall be fixed as the assessed value of such portion of the crude petroleum unsold, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessments made on such sold and unsold crude petroleum.

The State tax commission in making its assessments shall take into consideration transportation charges. (*Id.*, sec. 6.)

SEC. 4223c-7. Transporters liable for taxes—Collection from producer.

Every person, firm, corporation or association required to make report as provided in section 4223c-5 hereof, shall be responsible and liable for the taxes as herein set forth on all crude petroleum so received by it, and shall collect from the producer in either money or crude petroleum the taxes imposed upon the provisions of this act; but if collection is in crude petroleum, such transporter is authorized and empowered to sell the same and pay said taxes by check or cash to the State tax commission or sheriff, as provided in this act. (*Id.*, sec. 7.)

SEC. 4223c-8. Additional reports.

The State tax commission may require reports on blanks prepared by it from all producers and transporters of crude petroleum, in addition to the reports above provided for, as it may deem necessary, from time to time. (*Id.*, sec. 8.)

SEC. 4223c-9. Delinquency, penalty for—Misdemeanor.

Any person, firm, corporation, or association required to make reports or collect and pay the taxes hereunder, failing to pay such taxes, penalty, or interest, after becoming delinquent; or failing to make any report required by this act for thirty days after the date upon which the same is required by

this act to be made; or failing for thirty days after engaging in the transportation of crude petroleum, as set out herein, to register as required hereby, shall be deemed guilty of a misdemeanor, and on conviction shall be fined fifty dollars (\$50.00) for each day of such failure, to be recovered by indictment or civil action, and a false report shall be deemed as a failure to report under this act. (Id., sec. 9.)

WAREHOUSES.

ACTS 1918, P. 655.

MARCH —, 1918.

CHAPTER 153.

AN ACT to amend and reenact subsection 1, section 4780a, chapter 133 of the Kentucky statutes, relating to oil warehouses.

Be it enacted, etc.:

* * * * *
NOTE.—This act was included in the Kentucky Statutes, 1915 (1918 Supplement), as section 4780a, and reads as follows:

STATUTES, 1915 (1918 SUPPLEMENT), VOL. 3, P. 1006.

CHAPTER 133.

ARTICLE 1a.

OIL WAREHOUSES.

SEC. 4780a-1. Establishment of.

That * * * crude and refined petroleum oils of all kinds * * * and petroleum oils * * * may be received and stored by the owner of any oil warehouse, and warehouse receipts may be issued therefor as herein provided; the owners of such warehouse shall, before transacting any business, obtain a license and give bond as provided for by sections 4782 and 4783 of the Kentucky statutes in the case of grain warehouses, such bond to be in the penal sum of twenty-five thousand (\$25,000) dollars. (March 21, 1904, ch. 57, p. 135, as amended March —, 1918, ch. 153, p. 655.)

OIL AND GAS.

LEASES—LANDS OF INFANTS AND INSANE.

LEASEHOLD PRIVILEGES—TAXATION.

LICENSE TAX—PROCEDURE.

LEASES—LANDS OF INFANTS AND INSANE.

ACTS 1918, P. 526.

MARCH 28, 1918.

CHAPTER 116.

AN ACT to authorize the guardian of an infant, curator or the committee of a person of unsound mind to lease the real estate or any interest therein of infant or person of unsound mind for the removal of oil and mineral and other mining purposes, and regulating the procedure therefor, and repealing chapter 99 of the acts of the regular session of the General Assembly of the Commonwealth of Kentucky during the year 1916.

Be it enacted, etc.:

NOTE.—This act is included in the Kentucky Statutes, 1915 (1918 Supplement), as section 2031a-2 and is as follows:

STATUTES, 1915 (1918 SUPPLEMENT), VOL. 3, P. 391.

CHAPTER 61.

* * * * *

SEC. 2031a-2. Lease of real estate of infant or person of unsound mind for purpose of removing coal, oil, gas, or minerals—Term of lease.

That the guardian of an infant, curator or the committee of a person of unsound mind may lease the real estate, or any interest therein, or (of) such infant or person of unsound mind for the purpose of mining and removing all or part of the coal, oil, gas and any or all other mineral or mineral substances and products therein; together with the usual and reasonably necessary privileges to mine, bore for, store, pump and remove the same, and similar products taken from other land, and the right to dump upon said land refuse or other products taken therefrom and from other land; and to erect upon said land miners' houses, commissaries and hotels and other houses and equipment reasonably necessary to enable the lessee to carry on the business in the most economical way. Such lease may be for such length of time as the guardian, curator or committee may approve, without being limited to the time at which the disability of such infant or person of unsound mind may be revoked (removed). (March, 1916, ch. 99, p. 647, sec. 1, as amended March 28, 1918, ch. 116, p. 526, sec. 2.)

* * * * *

NOTE.—The Supreme Court of Kentucky has held this act void in so far as it authorized the leasing to extend after the disability has been removed. *Lawrence J. Tierney Coal Co. v. Smith*, 180 Kentucky, 815.

LEASEHOLD PRIVILEGES—TAXATION.

ACTS 1918, P. 545.

MARCH 29, 1918.

CHAPTER 123.

AN ACT to amend and reenact section 4039 of Kentucky Statutes, edition of 1915, relating to the assessment of real estate, or other property, owned by nonresidents of the State or of the county in which such real estate, or interest therein, or other property, is located, and providing a penalty for a failure to assess such property as herein provided.

Be it enacted, etc.:

NOTE.—This act was included in Kentucky Statutes, 1915 (1918 Supplement as section 4039 and reads as follows:

STATUTES, 1915 (1918 SUPPLEMENT), VOL. 3, P. 788.

CHAPTER 108.

REVENUE AND TAXATION.

ARTICLE I.

* * * * *

SEC. 4039. Mineral rights—Oil, gas, trees, duty of owner, penalty.

It shall be the duty of all persons owning any * * * oil or gas privileges by lease or otherwise, or any interest therein, in this State, other than in the county in which the said owner resides; or if said owner should reside out of the State, to list the property for taxes personally, or by an authorized agent in the county where situated at the same time and in the same manner as is now provided by law of resident owners; or to file a descriptive list of the same between the first day of July and the first day of October in each year with the county clerk of the county wherein said property is located, fixing a fair cash value of the same and giving the nearest resident thereto and the number of the magisterial district in which the same is located. If any owner shall refuse or fail to comply with the provisions of this act he shall be fined not exceeding \$50.00, to be recovered by indictment in the county in which the property is situated, and if any owner fail to comply with the provisions of this act, either willfully or otherwise, he shall be subject to a penalty of twenty per cent on all taxes due by him upon the assessment of

said property, and the county clerk, in making out the tax bills, shall include said penalty in the tax bills of such taxpayers as may fail to comply with the provisions of this act, and the sheriff shall collect and account for such penalty the same as the taxes. No fine shall be imposed nor penalty imposed if the property be assessed in the manner herein provided before the county board of supervisors has finally completed its work. (March 15, 1906, ch. 22, p. 88, Art. I, sec. 20, as amended March 29, 1918, ch. 123, p. 545.)

LICENSE TAX—PROCEDURE.

ACTS 1917, P. 33.
(SPECIAL SESSION.)

MAY 2, 1917.

CHAPTER 7.

AN ACT relating to revenue and taxation, providing for corporation license taxes for certain corporations, providing amount and manner of paying same, requiring reports to be made and manner of making same, fixing fines and penalties for violation, and repealing existing statutes.

Be it enacted, etc.:

NOTE.—This act was included in Kentucky Statutes, 1915 (1918 Supplement), as sections 4189a to 4189i. Section 7 of the original act was amended by an act of March 29, 1918, acts 1918, p. 546, and this amendatory section is included as section 4189g. The sections applicable are as follows:

STATUTES, 1915 (1918 SUPPLEMENT), VOL. 3, P. 815.

CHAPTER 108.

ARTICLE XI.

LICENSE TAX ON CORPORATIONS.

Sec. 4189a. License tax on corporations.

All corporations having capital stock divided into shares, organized by or under the laws of this or any other State or Government, owning property or doing business in this State, except foreign insurance companies, whether fire, life, accident, casualty or indemnity, foreign and domestic building and loan associations, banks, and trust companies, and all corporations which, under existing laws, are liable to pay a franchise or license tax, shall pay to this State, to be credited to the sinking fund, an annual license tax based upon its authorized capital stock, as hereinafter provided. (March 15, 1906, ch. 22, p. 88, Art. XI, sec. 1, as amended May 2, 1917, ch. 7, p. 33, sec. 1.)

* * * * *

Sec. 4189c. Amount of tax.

Domestic and foreign corporations shall pay an annual license tax of fifty cents on each one thousand dollars of that part of their authorized capital stock represented by property owned and business transacted in this State, which shall be ascertained by finding the proportion that the property owned and business transacted in this State bears to the aggregate amount of property owned and business transacted in and out of this State. * * * (March 15, 1906, ch. 22, p. 88, Art. XI, sec. 3, as amended May 2, 1917, ch. 7, p. 33, sec. 3.)

Sec. 4189d. Reports to commission—What shall show—Assessment by board of valuation.

In order to ascertain the amount of taxes due and payable under the next preceding section by such corporations now owning property or transacting business in this State, it shall be the duty of every such corporation to file with the tax commission on or before the first day of February, 1918, and on or before the same day annually thereafter, a written report, verified by the affidavit of the president or secretary of such corporation, showing:

(a) The name of such corporation, the name of the State or Government under the laws of which it is incorporated, the date of incorporation, the place of its principal office in and out of the Commonwealth, the name and post-office address of its president and secretary, the name and post-office address of its authorized agent or attorney upon whom process may be executed, as provided by law, and the name and address of its officer or agent in charge of its business in this State.

(b) The total amount of its authorized capital stock.

(c) The value and location of the property owned and used by the company in Kentucky and the value of the property owned and used by the company in each State or foreign country outside of Kentucky, the aggregate amount of business transacted by said company during the preceding year ending the 31st day of December, and the proportion of such business transacted in this State and in each other State or foreign country, and such other facts bearing on proper taxation as the tax commission may require. * * * (Id., sec. 4, as amended May 2, 1917, ch. 7, p. 33, sec. 4.)

* * * * *

SEC. 4189g. Reports, when to be made—Extension of time. *

Domestic corporations and foreign corporations owning property or transacting business in this State shall make such report to the tax commission in a manner provided in this section on or before February first succeeding their incorporation or succeeding their becoming the owner of property or transacting business in this State; and shall make such report on or before said date annually thereafter. And except as provided in section 4189f such corporation shall pay the annual license tax at the rate and in the proportion provided in section 4189c, and in all respects be subject to the provisions and penalties in this section contained and prescribed, but the State tax commission may, for good cause shown, extend the time for filing said report for a period not longer than thirty days. (Id., sec. 7, May 2, 1917, ch. 7, p. 33, sec. 7, as amended March 29, 1918, ch. 124, p. 546.)

SEC. 4189h. Penalty for false statements.

Any person who shall falsely make an affidavit herein required shall be guilty of false swearing and, upon conviction therefor, shall suffer the pains and penalties in such cases made and provided. Any corporation which willfully violates the provisions of this section or any of such provisions, or willfully fails or neglects to perform any duty herein imposed upon it, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined any sum not less than fifty dollars nor more than one thousand dollars for each offense. * * * (Id., sec. 8, as amended May 2, 1917, ch. 7, p. 33, sec. 8.)

SEC. 4189i. Minimum fee.

No corporation required to pay an annual license tax under this section shall pay a less sum therefor than ten dollars. (Id., sec. 9, as amended May 2, 1917, ch. 7, p. 33, sec. 9.)

OIL AND GAS WELLS.

PLUGGING—DUTY AND PENALTY.

PIPE LINES.

RIGHTS OF WAY—CONDEMNATION.

STATUTES 1915, VOL. 2, P. 1999.

(ACT OF MAY 14, 1892.)

CHAPTER 100.

PETROLEUM, NATURAL GAS, AND SALT-WATER WELLS.

SEC. 3910. Person not using well to close it so as to prevent waste.

That from and after the passage of this act, any person or corporation, and each and every one of them, in possession, whether as owner, lessee, agent or

manager, of any well in which petroleum, natural gas, or salt water has been found, shall, unless said product is sooner utilized, within a reasonable time, not, however, exceeding three months from the completion of said well, in order to prevent said product wasting by escape, shut in and confine the same in said well until such time as it shall be utilized: Provided, however, That this section shall not apply to gas escaping from any well while it is being operated as an oil well, or while it is used for fresh or mineral water.

SEC. 3911. How abandoned wells to be closed.

That whenever any well shall have been put down for the purpose of drilling, or exploring for oil, gas or salt water, upon abandoning or ceasing to operate the same, the person or corporation in possession as aforesaid shall, for the purpose of excluding all fresh water from the gas-bearing rock, and before drawing the casing, fill up the well with sand or rock sediment to a depth of at least twenty feet above the rock which holds the oil, gas, or salt water, and drive a round, seasoned wooden plug, at least three feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing; and immediately after drawing the casing, shall drive a round, seasoned wooden plug, at a point just below where the lower end of the casing rests, which plug shall be at least three feet in length, tapering in form, and of the same diameter, at the distance of eighteen inches from the smaller end, as the diameter of the hole below the point at which it is to be driven. After the plug has been properly driven, there shall be filled on top of the same sand or rock sediment to the depth of at least five feet.

SEC. 3912. Penalty for violation of provision of this law.

Any person or corporation who shall violate any of the provisions of sections 3910 or 3911 shall be liable to a penalty of one hundred dollars for each and every violation thereof, and to the further penalty of one hundred dollars for each thirty days during which said violation shall continue; and all such penalties shall be recovered, with cost of suit, in a civil action or actions, in the name of the State, for the use of the county in which the well shall be located.

SEC. 3913. Who, besides owner, may close abandoned well.

Whenever any person or corporation in possession of any well in which oil, gas or salt water has been found, shall fail to comply with the provisions of section 3910, any person or corporation lawfully in possession of lands situate adjacent to or in the neighborhood of said well, may enter upon the lands upon which said well is situated, and take possession of said well from which oil, gas or salt water is allowed to escape or waste in violation of said section 3910, and tube and pack said well, and shut in said oil, gas or salt water, and may maintain a civil action in any court of this State against the owner, lessee, agent or manager of said well, and each and every one of them, jointly and severally, to recover the cost thereof. This shall be in addition to the penalties provided by section 3912.

SEC. 3914. Person not owner closing well may recover costs of owner.

Whenever any person or corporation shall abandon any well, and shall fail to comply with section 3911, any person or corporation lawfully in possession of lands adjacent to or in the neighborhood of said well, may enter upon the land upon which said well is situated, and take possession of said well, and plug the same in the manner provided by section 3911, and may maintain a civil action in any court of this State against the owner or person abandoning said well, and every one of them, jointly and severally, to recover the cost thereof. This shall be in addition to the penalties provided by section 3912: *Provided*, This section shall not apply to persons owning the lands on which said well or wells are situated and drilled by other parties; and in case the person or corporation

drilling said well or wells is insolvent, then, in that event, any person or corporation in possession of lands adjacent to or in the neighborhood of said well or wells, may enter upon the land upon which said well or wells are situated, and take possession of said well or wells, and plug the same in the manner provided for in section 3911, at their own expense.

SEC. 3914a. Abandoned oil or gas well to be closed—Penalty.

It shall be unlawful for any person or persons, corporations or companies to abandon any oil or gas wells, either dry or producing, in this Commonwealth, or to remove casings therefrom, whether same be either oil or gas, either producing or dry, or for any cause abandon said well or wells without first plugging same in a secure manner by placing a plug of pine, poplar or some other material which will prevent said well from becoming flooded, said plug to be placed above the oil-producing sand or sands, and filled in above for the distance of seven feet with sediment or clay and placing upon same another plug of similar material as that of the first and also placing about ten feet below the said casing another plug of like material as above referred to, seven feet of sediment or clay, and then another plug, all plugs to be securely driven in so that no water can pass the same, before the casing is removed.

Any person or persons, corporations or companies refusing or failing to comply with the foregoing provisions as provided for in section 1 herein, shall, on conviction, be fined in any sum not less than one hundred dollars, or not more than one thousand dollars, in the discretion of the jury.

All acts or parts of acts in conflict herewith are hereby repealed. (This section is an act of March, 1906, p. 280.)

PIPE LINES.

RIGHTS OF WAY—CONDEMNATION.

STATUTES 1915, VOL. 2, P. 1949.

(ACT OF MARCH 20, 1900.)

CHAPTER 932.

OIL AND GAS—CONDEMNATION OF LAND FOR.

SEC. 3766b. Condemnation of land.

All corporations or companies organized for the purpose of constructing, maintaining, or operating oil or gas well or wells or pipe line or lines for conveying, transporting or delivering oil or gas, or both oil and gas, are hereby vested with the right and power to condemn lands and material in this Commonwealth or the use and occupation of so much thereof as may be necessary for constructing, maintaining, and operating such pipe line, or lines, and all necessary machinery, pumping stations, appliances and fixtures, including tanks, telephone and telegraph lines, for use in connection therewith, together with rights of ingress and egress to examine, alter, repair, maintain and operate or remove such pipe line or lines, all such being hereby declared to be a public use; and when any such corporation or company desires to construct oil or gas pipe line or lines, or both, for the purpose of conducting, transporting, or delivering oil or gas, or both, over the lands of others, shall be unable to contract or agree with the owner or owners, of land or material necessary for its use for said purposes, it may, in the mode prescribed for the condemnation of land for railroads, condemn the use of so much of said land as may be necessary for the purpose of constructing, maintaining, and operating such pipe line or lines, and all necessary machinery, pumping stations, appliances, and fixtures, including necessary tanks, telephone and telegraph lines, and including rights of ingress and egress to examine, alter, repair, maintain, and operate or remove the same.

LOUISIANA.

CONTENTS.

	Page.
Conservation commission.....	143
Administration and duties—Resolution—Tax on output.....	143
Conservation fund—Creation.....	145
Department of conservation.....	146
Change of name—Duties of commission.....	146
Natural gas.....	146
Conservation—Waste prevented—Use regulated.....	146
Drilling—Marketing—Common purchasers.....	148
Oil and gas.....	150
Drilling wells—Conservation—Plugging wells—Regulations.....	150
Lease—Lakes and river beds.....	151
Lease—Public lands.....	152
License tax—Companies producing—Collection.....	153
Policy of State.....	155
Oil properties.....	155
Mortgages authorized.....	155
Oil—Conservation and Regulation.....	156
Department of conservation.....	156

CONSERVATION COMMISSION.

ADMINISTRATION AND DUTIES—RESOLUTION—TAX ON OUTPUT.

CONSERVATION FUND—CREATION.

ADMINISTRATION AND DUTIES—RESOLUTION—TAX ON OUTPUT.

LAWS 1910, P. 255.

JULY 6, 1910.

ACT NO. 172.

AN ACT making appropriation to defray the expenses of the conservation commission and to amend and reenact act No. 144 of the session of 1908, approved July 2, 1908, entitled "An act to establish a commission for the conservation of natural resources; to provide for its maintenance, administration, and duties, and repealing all laws in conflict or inconsistent with its provisions."

SEC. 1. Be it enacted by the general assembly of the State of Louisiana, That act No. 144 of the session of 1908, approved July 2nd, 1908, be amended and reenacted so as to read as follows:

Whereas, the recent conference of governors in the White House declared their firm conviction that the conservation of natural resources is a subject of transcendent importance; that these resources include the waters, the forests, and minerals; that the Nation, the State and the people should cooperate in conservation; and

Whereas, the conference declared that this cooperation should find expression in suitable action by the Congress within the limits of, and coextensive with, the national jurisdiction of the subject, and complimentary thereto by the legislatures of the several States within the limits of and coextensive with their jurisdiction; and

Whereas, the conference recommended the appointment by each State of a commission on the conservation of natural resources, to cooperate with each other and with any similar commission of the Federal Government, therefore

SEC. 2. Be it further enacted, etc.:

That a board of commissioners, to be known as the "Conservation Commission," is hereby created. * * *

SEC. 3. Be it further enacted, etc.:

That it shall be the duty of the commission provided for in section 2 of this act to inquire into and report on the * * * prevention of waste in the extraction of oil, gas and other minerals, and generally on all matters pertinent to these subjects. * * *

SEC. 5. Be it further enacted, etc.:

That each and every company, person, persons, association of persons, or corporation engaged shall pay a license on such business based on the gross annual output as follows to wit:

PARAGRAPH 1. That for the business of carrying on the mining and production of oil the license shall be ($\frac{2}{5}$) two-fifths of one cent on each barrel produced.

PARAGRAPH 2. That for carrying on the business of mining and producing natural gas, the license shall be ($\frac{1}{5}$) one-fifth of one cent on each ten thousand cubic feet produced. * * *

SEC. 8. Be it further enacted, etc.:

That all monies collected on licenses under the terms of this act shall be placed in the treasury to the credit of the "Conservation fund," which is hereby created.

LAWS 1912, P. 151.

JULY 9, 1912.

ACT NO. 127.

AN ACT to create and establish a conservation commission of Louisiana, defining its duties and powers and constituting it a department of the government; to provide for the necessary employees and defining their qualifications, duties, and powers in relation to the protection of * * * mineral resources of the State; to provide for the payment of the salaries and expenses of the said commission, to issue licenses and levy and collect the charges thereon, and to provide for the revenues to maintain and support the same; * * * to authorize the conservation commission herein created to discharge * * * the duties heretofore assigned to the * * * department of mining and minerals; to authorize said commission to represent the aforesaid other commissions either as defendant in any litigation that might be pending; to provide penalties for the violation of this act, and to repeal all laws or parts of laws in conflict with or inconsistent with the provisions of the act.

Sec. 1. Be it enacted, etc.:

That the Conservation Commission is hereby created. * * *

SEC. 2. * * *

Said Commission shall adopt by-laws for its own government and the government of its employees, it shall adopt rules and regulations for comprehensive control of * * * mineral and soil and natural resources of the State which said by-laws or rules and regulations shall not be inconsistent with or contrary to the provisions of this act. * * * It shall, likewise enforce all laws relating to the natural mineral * * * resources of this State. * * *

SEC. 26. Be it further enacted, etc.:

That the Conservation Commission hereby created shall be charged with the duties of carrying out the provisions of Acts 172 and 196 of 1910, and any other laws on the subject of the conservation of the natural, mineral, and soil * * * resources of this State in so far as they are not in conflict with the provisions of this act, and the Conservation Commission hereby created shall to that extent discharge the functions heretofore exercised by the Conservation Commission created by Act 172 of 1910.

* * * * *

SEC. 28. Penalty.

Be it further enacted, etc.:

That any person violating any of the provisions of this act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or be subject to imprisonment for not less than thirty (30) days, or be liable to both fine and imprisonment in the discretion of the court.

* * * * *

CONSERVATION FUND—CREATION.

LAWS 1910, P. 329.

JULY 6, 1910.

ACT NO. 196.

AN ACT to create a conservation fund by levying, collecting, and enforcing payment of an annual license tax upon all persons, associations of persons, or business firms and corporations, pursuing the business of severing * * * minerals from the soil; and prescribing the mode and method in which said persons subject to license tax shall make report of their business.

SEC. 1. Be it enacted, etc.:

That there is hereby levied an annual license tax for the year 1911, and for each subsequent year, upon each person, association of persons, or business firm or corporation, pursuing the business of severing from the soil * * * minerals subject to license under article 229 of the constitution.

SEC. 2. Be it further enacted, etc.:

That on the second day of January, 1911, and each subsequent year, each tax collector throughout the State shall begin to collect and shall collect as fast as possible from each of the persons and corporations pursuing within his district or parish the business of severing from the soil * * * minerals, a license tax as hereinafter fixed. The said tax collectors shall receive for collecting said license tax the same compensation as for collecting other license taxes. * * *

* * * * *

SEC. 4. Be it further enacted, etc.:

That every mining company engaged in this State in the business of producing oil, natural gas, sulphur, or salt shall on the first day of February of each year, render to the secretary of state a report signed and sworn to by the president and secretary, of its annual production in each parish, the total financial receipts in the sale of the annual product, and annual total quantity of the products at the mines or wells in such form as he may require. The tax collector shall demand from each company applying for a license a certificate from the secretary of the state, certifying to the total amount of the product mined in each parish during the preceding year by such company as shown by the sworn statement on file in his office, and the license shall be based upon such certificate.

DEPARTMENT OF CONSERVATION.

CHANGE OF NAME—DUTIES OF COMMISSION.

LAWS 1916, P. 171.

JUNE 30, 1916.

ACT NO. 65.

AN ACT to amend and reenact section one of act No. 127 of the acts of the general assembly of 1912, entitled: "An act to create and establish a Conservation Commission of Louisiana, defining its duties and powers and constituting it a department of the government; * * * to authorize the Conservation Commission herein created to discharge the duties and functions heretofore exercised by the Board of Commissioners and the duties heretofore assigned to * * * the Department of Mining and Minerals. * * *

SECTION One. Be it enacted, etc.:

That section one of act No. 127 of the acts of the general assembly of 1912, approved July 9th, 1912, be amended and reenacted so as to read as follows:

Be it enacted, etc.:

That the "Department of Conservation" is hereby created. * * * The commissioner herein provided for shall fully represent the Department of Conservation and discharge all the obligations and duties heretofore devolving upon the three members of the Conservation Commission; it being the intent and purpose of this act to reduce the Commission to one head, who shall be Superintendent and General Manager of all of the affairs properly coming within its supervision; and to place in said Department of Conservation all the duties, authority, power, privilege, and jurisdiction of the Conservation Commission.

* * * * *

NATURAL GAS.

CONSERVATION—WASTE PREVENTED—USE REGULATED
 DRILLING—MARKETING—COMMON PURCHASERS.

CONSERVATION—WASTE PREVENTED—USE REGULATED.

LAWS 1918, P. 513.

JULY 11, 1918.

ACT NO. 268.

AN ACT defining waste and making the waste or undue use of natural gas a misdemeanor; empowering the Department of Conservation with authority to prevent the use of natural gas in a manner calculated to threaten the common reservoir of natural gas with premature exhaustion, and charging the said Department with the duty to regulate the method of taking natural gas from any well and the use of natural gas; empowering court proceedings to enforce the provisions of this act; requiring the sellers and users of natural gas in manufacturing enterprises to make full and complete report of the quantity of natural gas used by them to the department of conservation; requiring the said department to make semiannually a full and complete report to the governor by parishes of the natural gas being used within the State, the waste going on and the situation as to the future supply of natural gas in the jury parishes, and likewise make such report to the president of the police jury of each parish in which natural gas is produced; requiring the district judges of the several parishes wherein natural gas is produced to charge each grand jury with the duty of investigating the waste of natural gas, or the use being made of natural gas in a manner to threaten with premature exhaustion or extinction the common reservoir of such natural gas; and providing penalties for the violation of the provisions of this act.

SEC. 1. Be it enacted, etc.:

That it shall be unlawful to permit the waste of natural gas, or to use natural gas for any purpose whatsoever in such manner as will threaten with premature

exhaustion, extinction or destruction the common supply or common reservoir from which said natural gas is drawn.

SEC. 2. Be it further enacted, etc.:

That the term waste as above used in addition to its ordinary meaning shall include,

(a) Wantonly or wilfully permitting the escape of natural gas in commercial quantities into the open air.

(b) The intentional drowning with water of a gas stratum capable of producing gas in commercial quantities.

(c) Underground waste.

(d) Permitting of any natural gas well to wastefully burn.

SEC. 3. Be it further enacted, etc.:

That the Department of Conservation is granted full power and authority to prevent the waste of natural gas, or the use of natural gas for any purpose whatsoever in such quantities as will threaten with premature exhaustion, extinction or destruction the common supply or common reservoir from which said natural gas is drawn by preventing the flow during each 24 hours from any well of more than twenty-five per cent of the potential capacity thereof, and it is made the imperative duty of the said Department of Conservation to make frequent inspection and investigation of the natural gas fields of the State so as to carry out the provisions of this act, and if any waste or use of natural gas in quantities to threaten with premature exhaustion, extinction or destruction the common reservoir from which the natural gas is being drawn is found to exist as waste and the undue use of natural gas has heretofore been defined, the said Department shall proceed at once to prevent or stop the waste or improper use of such natural gas; and to carry out the provisions of this act and existing laws the Department of Conservation is empowered to sue out an injunction without giving bond in any of the district courts of the State to prevent and prohibit the said waste of natural gas or the use or manner of use of natural gas in such quantities as to threaten the premature exhaustion, extinction or destruction the common source or reservoir from which said natural gas is being drawn as waste, and the undue use of natural gas has heretofore been defined; and in all such proceedings it shall be the duty of the Attorney General of Louisiana to appear in behalf of said Department, which injunction shall not be dissolved on bond.

SEC. 4. Be it further enacted, etc.:

That there is hereby granted to and vested in the Department of Conservation the power to regulate the use of pumps, compressors and other artificial or injurious means of increasing the natural flow.

SEC. 5. Be it further enacted, etc.:

That every person, association, partnership or corporation engaged in selling natural gas or using natural gas in the manufacture of any article of commerce, or for fuel in manufacturing enterprises, shall make semiannual reports under oath to the Department of Conservation upon blanks to be furnished by the department showing the manner of use and quantities of natural gas used or sold as aforesaid.

SEC. 6. Be it further enacted, etc.:

That the Department of Conservation shall make a full and complete report semiannually to the governor of the situation in the various natural gas fields within the State, and shall likewise file with the president of the police jury of each parish within which natural gas is produced a statement showing the situation concerning the present and future supply of natural gas within such year.

SEC. 7. Be it further enacted, etc.:

That it shall be the duty of the district judges in those parishes wherein natural gas is produced or found, to charge the grand juries to inquire into the waste of natural gas, or the use being made of natural gas for any purpose whatsoever that is threatening with premature exhaustion, extinction or destruction the common source or reservoir from which said natural gas is being drawn, as waste and the undue use of natural gas has heretofore been defined.

SEC. 8. Be it further enacted, etc.:

That each violation of this act shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than sixty days, or both in the discretion of the court, and in default of the payment of the fine imposed by imprisonment for an additional time not exceeding six months, and each day this act is violated shall constitute a separate offense hereunder after written notification given to the offender by authority of the said Department of Conservation.

SEC. 9. Be it further enacted, etc.:

That this act shall not repeal the existing laws on this same subject matter unless the same are inconsistent with the provisions of this act.

DRILLING—MARKETING—COMMON PURCHASERS.**LAWS 1918, P. 516.****JULY 11, 1918.****ACT NO. 270.**

AN ACT looking to the conservation of natural gas in the State; regulating the drilling for natural gas, its extraction from the earth and marketing; making persons, firms or corporations engaged in the business of purchasing and selling natural gas in the State common purchasers from all and regulating the manner of such purchase without discrimination, excepting municipal corporations and the pipe lines and distribution systems of corporations the direct ownership of which may revert to any municipality; regulating the method of measuring gas so produced and purchased; conferring upon the Conservation Commission of Louisiana certain powers with reference to such boring, extraction, purchase, and sale of such natural gas; charging said Commission with the enforcement of this act; charging District Attorneys with the duty of bringing necessary suits to enforce this act with injunction to be issued without bond, fixing penalties, etc.; providing penalties for the violation of this act and to repeal all laws or parts of laws in conflict with the provisions of this act.

SEC. 1. Be it enacted, etc.:

That, in order to further conserve the natural gas in the State of Louisiana, whenever the full production from any common source of supply of natural gas in this State is in excess of the market demands, then any person, firm or corporation having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by any such person, firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well, so as to prevent any such person, firm or corporation, securing any unfair proportion of the gas therefrom; provided, that the Conservation Commission of Louisiana may by proper order, permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable.

SEC. 2. Be it further enacted, etc.:

That every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this State, shall be common

purchaser thereof, and shall purchase all of the natural gas which may be offered for sale which may be brought in pipes and connecting lines by the owner or proposed seller to its trunk lines, at the seller's expense, or to its gathering lines, without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Conservation Commission of Louisiana, after due notice and hearing; but if any such person, firm or corporation shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably, and any common purchaser of gas shall have the same right to purchase the product of any gas well or wells that are not being utilized under the conditions of this act; and in the event the owner of said well or wells refuses to sell, the common purchaser shall have the same rights of action against such owner or owners as the seller has against the common purchaser who refuses to buy, and the seller so refusing to sell shall be subject to the same penalties—etc., provided against the common purchaser who refuses to buy. This act shall not affect in any way a municipal corporation engaged in buying and selling natural gas, or any corporation that builds or maintains a pipe line or distribution system for the purchase and sale of natural gas, the direct ownership of which shall vest in, or which may under charter or franchise provisions ultimately vest in or be acquired by any municipality.

SEC. 3. Be it further enacted, etc.:

That no common purchaser shall discriminate between like grades and pressures of natural gas, or in favor of its own production or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of prorating the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion such production bears to the total production available for marketing.

SEC. 4. Be it further enacted, etc.:

That all gas produced from the deposits of this State when sold shall be measured by meter, and the Conservation Commission of Louisiana shall, upon notice and hearing, relieve any common purchaser from purchasing gas of an inferior quality or grade, and the Commission shall from time to time make such regulations for delivery, metering, and equitable purchase and taking as conditions may necessitate.

SEC. 5. Be it further enacted, etc.:

That it shall be the duty of the Conservation Commission of Louisiana to see that the provisions of this act are fully and properly complied with and it shall further be the duty of the District Attorney, in whose district any violation takes place, on application of the Conservation Commission of Louisiana, to bring such suit or suits as may be necessary to enforce the provisions of this act and any injunction which may be necessary shall be furnished without bond.

SEC. 6. Be it further enacted, etc.:

That any person, firm or corporation or partnership violating any of the provisions of this act shall be guilty of a misdemeanor and on conviction thereof in any court of competent jurisdiction be liable and fined not less than \$50.00 nor more than \$500.00 or be subject to imprisonment for thirty days or be liable to both fine and punishment in the discretion of the court for each offense, each day's continuation of such violation shall be and is hereby declared to be a separate offense.

SEC. 7. Be it further enacted, etc.:

That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

OIL AND GAS.

DRILLING WELLS—CONSERVATION—PLUGGING WELLS—REGULATIONS.

LEASE--LAKES AND RIVER BEDS.

LEASE—PUBLIC LANDS.

LICENSE TAX—COMPANIES PRODUCING—COLLECTION.

POLICY OF STATE.

DRILLING WELLS—CONSERVATION—PLUGGING WELLS—REGULATIONS.

LAWS 1910, P. 313.

ACT NO. 190.

AN ACT to provide for the conservation of natural gas by regulations to prevent waste in the extraction of oil and gas, and transportation thereof; and to provide penalties.

PROCEDURE IN EVENT OF ABANDONING OIL AND GAS WELLS.

SEC. 1. Be it enacted, etc.:

That whenever any well shall have been sunk for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom, it shall be the duty of any person, firm, or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also of the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same as follows: If such well has not been "shot," there shall be placed in the bottom of the hole thereof a plug of well-seasoned pine wood, the diameter of which shall be within one-half inch as great as the hole of such well, to extend at least three feet above the salt-water level, where salt water has been struck, such plug shall extend at least three feet from the bottom of the well. In both cases such wooden plugs shall be thoroughly rammed down and made tight by the use of drilling tools. After such ramming and tightening the hole of such well shall be filled on top of such plug with finely broken stone or sand, which shall be well rammed at a point at least four feet above the gas or oil bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five feet long with diameter as aforesaid, which shall be thoroughly rammed and tightened. In case such well has been "shot" the bottom of the hole thereof shall be filled with a proper and sufficient mixture of sand, stone and dry cement, so as to form a concrete up to a point at least eight feet above the top of the gas or oil bearing rock or rocks, and on top of this filling shall be placed a wooden plug at least six feet long, with diameter as aforesaid, which shall be properly rammed as aforesaid. The casing from the well shall then be pulled or withdrawn therefrom, and immediately thereafter a cast-iron ball, eight inches in diameter, shall be dropped in the well and securely rammed into the shale by the driller or owner of the well, after which not less than one cubic yard of sand pumping or drilling taken from the well shall be put on top of said iron ball.

REGULATION OF FLOW OF WELLS.

SEC. 2. Be it further enacted, etc.:

That it shall be unlawful for any person, firm, or corporation having possession or control of any natural gas or oil well, whether as a contractor, owner, lessee, agent or manager, to allow or permit the flow of gas or oil from any such well to escape into the open air without being confined within such well

or proper pipes, or other safe receptacle, for a period longer than two (2) days next after gas or oil shall have been struck in such well, and thereafter all such gas or oil shall be safely and securely confined in such wells, pipes or other safe and proper receptacles; provided that this law shall not apply to any well that is being operated for the production of oil and in which the oil produced has a higher salable value in the field than has the gas so lost.

REGULATION OF BORING OF GAS AND OIL WELLS.

SEC. 3. Be it further enacted, etc.:

That the Supervisor of Minerals shall have, and he is hereby invested with, authority to prescribe regulations for the boring of oil and gas wells, to the end that blowouts and gas waste otherwise shall be avoided, which regulations shall be followed by the drillers.

SEC. 4. Be it further enacted, etc.:

That any person, firm, or corporation violating the provisions of sections 1 and 2 of this act or any reasonable regulations provided by the Supervisor of Minerals shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) or shall be imprisoned for a period not exceeding three months, in the discretion of the court.

PENALTIES.

SEC. 5. Be it further enacted, etc.:

That whenever any person, or corporation, in possession or control of any well in which natural gas or oil has been found shall fail to comply with the provisions of this act, any person or corporation lawfully in possession of lands situated adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situated and take possession of such well from which gas or oil is allowed to escape in violation of the provisions of sections 1 and 2 of this act, and pack and tube such well and shut in and secure the flow of gas or oil, and maintain a civil action in any court of competent jurisdiction in this State against the owner, lessee, agent or manager of said well, and each of them jointly and severally, to recover the cost and expenses of such tubing and packing, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided by section 4 of this act.

SEC. 6. Be it further enacted, etc.:

That this act shall take effect from and after its passage, and all laws in conflict herewith are hereby repealed.

LEASE—LAKES AND RIVER BEDS.

LAWS 1915, P. 62.
(EXTRA SESSION.)

JUNE 14, 1915.

ACT NO. 30.

AN ACT authorizing the governor to lease lands, including lake and river beds and other bottoms, belonging to the State, and providing the terms and conditions of such leases.

SEC. 1. Be it enacted, etc.:

That the Governor be and is hereby authorized to lease any lands, including lake and river beds and other bottoms, belonging to the State of Louisiana, for the development and production of oil, coal, gas, salt, sulphur, lignite and other minerals, under the terms and conditions hereinafter set forth.

SEC. 2. Be it further enacted, etc.:

That when any person, firm, association, or corporation shall desire to lease, as hereinafter provided, any of such lands belonging to this State, he, they or it shall make application to the Governor in writing of his, their or its desire to lease the same, giving the description or character of the land in such application, accompanying the application with a certified check for fifty dollars (\$50.00) to be deposited with the register of the State land office as evidence of the good faith of such application, which sum is to be returned to the applicant should he bid for and fail to secure the lease of such land as herein provided.

SEC. 3. Be it further enacted, etc.:

That upon receipt of application for the lease of land, subject to the provisions of this act, accompanied by the above deposit, the Governor of the State may cause the register of the State land office to make an inspection of the land sought to be leased and after receiving a report from the State land office as to the nature and character and surroundings of such land the Governor may cause to be published in the official journal of the State and in the official journal of the parish wherein such land is located and an advertisement to be published for a period of not less than fifteen days (15), setting forth therein a description of the land to be leased by the State, the time when bids therefore will be received, a short summary of the terms and conditions of the lease or leases to be executed, and, in his discretion, the royalty to be demanded should he deem it to the interests of the State to call for bids on the basis of a royalty fixed by him: Provided, That if such lands be situated in two or more parishes such advertisement shall appear in the official journals of all the parishes where such lands may partly lie.

SEC. 4. Be it further enacted, etc.:

That at the date and hour mentioned in the said advertisement for the consideration of bids for the said lease or leases the same shall be opened in public at the State capital by the Governor, who is hereby vested with full authority to execute said lease or leases, to the highest bidders therefor under the terms and conditions fixed by him: Provided, That no lease shall be executed for less than one-eighth ($\frac{1}{8}$) of the oil or other minerals produced or for less than two hundred dollars (\$200.00) per year for each gas well; and provided further, that the governor shall have the right to reject any and all bids.

SEC. 5. Be it further enacted, etc.:

That all laws and parts of laws in conflict herewith be and the same are hereby repealed: Provided, That nothing herein contained shall have the effect of annulling or impairing in any way contracts of lease heretofore executed covering any such property.

LEASE—PUBLIC LANDS.**LAWS 1912, P. 582.****JULY 11, 1912.****ACT NO. 258.****HOUSE CONCURRENT RESOLUTION NO. 36.**

Be it resolved by the House of Representatives of the State of Louisiana, the Senate concurring:

That the Governor of the State of Louisiana be, and is hereby, authorized to lease any vacant and unappropriated public lands belonging to the State of Louisiana, for the development and production of oil, gas, coal, salt, sulphur, lignite, and any other minerals, under the terms and provisions hereinafter set forth. * * *

Resolved further, That at the date and hour mentioned in the said advertisement for the consideration of bids for said leases, the same shall be opened in public at the State capitol, by the Governor, who is hereby vested with full authority to execute said lease or leases, and to fix the terms and conditions thereof; and the Governor is hereby vested with full authority to grant and execute said lease or leases as he may consider to the best interest of the State: Provided, however, That no lease shall be executed for a less royalty than one-eighth of the oil or other minerals produced, or for less than two hundred dollars per year for each gas well: And provided, further, That the Governor shall have the right to reject any and all bids.

* * * * *

LICENSE TAX—COMPANIES PRODUCING—COLLECTION.

LAWS 1918, P. 25.

AUGUST 15, 1918.

(EXTRA SESSION.)

ACT NO. 20.

AN ACT to carry into effect article 229 of the constitution of 1898, as amended at the election in November, 1910, by levying an annual license tax upon all persons, firms, corporations or associations of persons engaged in the business of severing natural products from the soil, as * * * minerals, including oil, gas, sulphur, and salt; and prescribing the method of collecting the license; requiring all those engaged in the severance of, and dealing in, such products to make reports of their business; to provide for the distribution of funds arising from this act; to provide for their expenditure under the direction of certain boards herein created; to provide penalties; and to repeal all laws in conflict herewith.

SEC. 1. Be it enacted, etc.:

That there is hereby levied a license tax for the year 1918 and for each subsequent year, upon each person or association of persons, firms, or corporations pursuing the business of severing natural products, including all forms of * * * minerals, including oil, gas, sulphur, and salt, from the soil; to be collected quarterly by the tax collectors as hereinafter set forth, the license for each quarter to be based on the amount severed in the preceding quarter.

SEC. 2. Be it further enacted, etc.:

That every such person, firm, association of persons, or corporation engaged within the State in the business of severing * * * oil, gas, sulphur, and salt from the soil shall, within thirty days after the expiration of each quarter annual period expiring respectively on the last day of March, June, September, and December of each year, file with the Department of Conservation a statement under oath, on forms prescribed by it, of the business conducted by such person, firm, association, or corporation during the last preceding quarter annual period, showing the nature of the natural products so produced, and the gross amount thereof, the actual cash value thereof, and any such information pertaining thereto as the Department of Conservation may require, and in the case of a mine or oil or gas well, * * * showing their location and showing the location also of each * * * farm, tract or lot of land upon which the wells that are actually producing oil, sulphur, salt, or other minerals are located; also giving the number of actually producing gas wells on each farm, or tract or lot from which said person, firm, association, or corporation is selling gas, either for domestic use, manufacturing purposes, or making a business of selling it for any purpose whatever. At the time of rendering the said report the said person, firm, association, or corporation shall at the same time pay to the tax collector of the parish where said product is taken or

severed from the soil, a license to operate in each succeeding quarter, fixed upon the amount of production of the preceding quarter, as follows:

* * * three-fourths ($\frac{3}{4}$) of one (1) cent per barrel for severing oil;
 * * * one-fifth ($\frac{1}{5}$) of one (1) mill per one thousand (1,000) cubic feet for severing gas.

The making of said reports and the payment of said licenses shall be by those actually engaged in the operation of severing, whether it be the owner of the soil, or a lessee who is severing from the soil of another, or the owner of any such resources severing from the soil of another. * * *

* * * * *

SEC. 5. Be it further enacted, etc.:

That if any person, firm, association, or corporation shall fail to make a report of the gross production of its natural products upon which the license is herein provided for within the time prescribed by law for such report, it shall be the duty of the Department of Conservation to examine the books, records, and files of any such person, firm, association, or corporation to ascertain the amount and value of such production and to compute the tax thereon as provided herein, and shall add thereto the cost of such examination, together with any penalties accruing therefrom, and to this end it may call upon the supervisor of public accounts to assist in such investigation.

* * * * *

SEC. 12. Be it further enacted, etc.:

That all laws and parts of laws, including Act No. 10 of 1916, Act 145 of 1916, Act 82 of 1918, and Act 124 of 1918, in conflict herewith, be, and the same are hereby repealed.

LAWS 1914, P. 104.

JULY 1, 1914.

ACT NO. 41.

AN ACT to better insure the collection of the license tax, imposed by Act 209 in 1912, by placing the same under the supervision of the Conservation Commission of Louisiana, making appropriation to defray the necessary expenses of said commission therein, and to provide penalties for the violation of this act.

SEC. 1. Be it enacted, etc.:

* * * * *

SEC. 3. Be it further enacted, etc.:

That it is hereby made the duty of all pipe lines, purchasers, and others handling and dealing in any natural product severed from the soil of Louisiana, and doing business in the State of Louisiana, to file quarterly with the said Conservation Commission of Louisiana a statement, under oath, showing the names of all persons, firms or corporations from or for whom each said purchaser, handler and dealer has purchased, handled and dealt in any natural product severed from the soil of Louisiana during said quarter, together with the quantity of, and gross value paid for each such natural product in its unmanufactured state after severance from the soil and computed at the place where said natural products were severed or taken from the soil. Said reports shall be filed within thirty (30) days after the expiration of each quarter, beginning with the quarter ending September 30th, 1914, and shall be made on such forms as may be prescribed by said Conservation Commission of Louisiana.

SEC. 4. Be it further enacted, etc.:

That any person, firm, association, or corporation, violating the provisions of this act, including any reasonable regulations adopted by the Conservation Commission of Louisiana, under authority hereof, to be punished by a fine of not less than one hundred (\$100) dollars and not more than five hundred (\$500) dollars, for such offense.

* * * * *

POLICY OF STATE.

LAWS OF 1915, P. 50.
(EXTRA SESSION.)

JUNE 10, 1915.

ACT NO. 21.

AN ACT approving the action and policy of the Governor of the State of Louisiana with respect to the oil, gas, and other mineral wealth of the State and to ratify and confirm all oil, gas and mineral leases of public lands, river and lake bottoms, made by the Governor on behalf of the State to various individuals, firms and corporations.

SEC. 1. Be it enacted, etc.:

That the action and policy of the Governor of Louisiana with respect to the oil, gas and other mineral wealth of the State be and the same are hereby approved.

SEC. 2. Be it further enacted, etc.:

That the action of the Governor in leasing to various individuals, firms and corporations, public lands, river and lake bottoms for the production therefrom of oil, gas and other minerals, and all lease contracts so entered into are hereby ratified and confirmed; provided that nothing in this act shall be deemed or held to apply to any lands or lake bottoms title to which was in contest in the courts on or before May 15th, 1915.

OIL PROPERTIES.

MORTGAGES AUTHORIZED.

LAWS 1916, P. 371.

JULY 5, 1916.

ACT NO. 151.

AN ACT (a) to grant the right to mortgage the following property: * * *
oil well casing; line pipes; drilling rigs; tanks. * * *

SEC. 1. Be it enacted, etc.:

That from and after the passage of this act it shall be lawful to mortgage * * * oil well casing; line pipes; drilling rigs; tanks; for debts or money loaned or to secure future advances by complying with the provisions of this act.

SEC. 2. Be it further enacted, etc.:

That every such mortgage of property mentioned in section 1 shall be in writing, setting out a full description of said property to be mortgaged, so that the same may be identified, and also stating definitely the time when the obligation shall mature, signed by both parties, their lawful agents or attorneys in the presence of two witnesses and to affect third persons without notice, said instrument must be passed by notarial act and deposited forthwith in the office of the recorder of mortgages in the parish where the property shall then be situated, and also in the parish in which the mortgagor is a resident.

* * * * *

SEC. 4. Be it further enacted, etc.:

That every mortgage shall be a lien on the property * * * mortgaged from the time same is recorded, which recordation shall be notice to all parties of the existence of such mortgage and said lien shall be superior in rank to any privilege or lien arising subsequently thereto.

SEC. 5. Be it further enacted, etc.:

That the mortgagor shall not move said property from the parish where said mortgage is given, without the written consent of the mortgagee, designat-

ing the parish or parishes to which same may be taken and to preserve said mortgage against third persons in such cases, it shall be the duty of the mortgagee to have a copy thereof recorded in the parish or parishes to which said removal is permitted. It shall be unlawful for a resident of any parish to purchase the movable property described in section 1 from any nonresident of any parish, without first obtaining an affidavit from the nonresident that there is no mortgage on the property, nor no money due for the purchase price thereof, and the purchaser who shall buy the above referred to movable property without having obtained the said affidavit shall be liable to the mortgagee for the amount due on the property.

* * * * *

OIL—CONSERVATION AND REGULATION.

DEPARTMENT OF CONSERVATION.

LAWS 1920, P. 88.

JULY 6, 1920.

ACT NO. 73.

AN ACT to conserve the oil resources of the State and to secure to each party entitled thereto an opportunity to sell his fair share of the oil produced in a common pool and to such end to prevent any person, firm, association of persons or corporation engaged in the business of purchasing crude petroleum from the producer from discriminating in such purchases during a condition of over-production; vesting the Commissioners of Conservation of Louisiana with jurisdiction to appoint a supervisor for such field while such condition continues, with authority to make rules and regulations governing such purchases, and likewise conferring on said Commissioner jurisdiction to exercise the other powers hereby vested in it; making violation of any order of the Commissioner or of any rule or regulation of such supervisor, legally issued hereunder, a misdemeanor and providing penalties therefor.

SEC. 1. Be it enacted, etc.:

That during a period of over-production in any oil field, it shall be the duty of the buying agencies to accord to each producer an opportunity to sell that proportion of the oil, taken by such buying agencies, as the potential production of oil from the wells of such producer bears to the potential production thereof from all the wells in such field. However, nothing in this act shall be construed as compelling the owner of any pipe line to construct a pipe line for purpose of reaching the well of any producer. In providing for the amount of oil to fill their requirements such buying agencies shall not take any larger percentage of the potential production of themselves, or of persons affiliated with them or under the same management or control, than they offer to purchase of the potential production of other producers; provided that nothing herein is intended to compel any buying agency to purchase oil in larger quantities or at a higher price than it desires; or to compel any producer to sell unless he shall wish to do so; or prevent any producer from storing oil by him produced, if he desires, but the amount so stored shall be deducted from the ratable share which such producer may require purchasing agencies to take under the provisions of this act.

SEC. 2. Be it further enacted, etc.:

That the provisions of this act shall not apply to any purchaser buying oil in quantities of less than five hundred (500) barrels per day and who transports such oil through his own facilities.

SEC. 3. Be it further enacted, etc.:

That upon a representation in writing and under oath, by any person to the Conservation Commissioner of Louisiana that there exists a condition of over-production in any oil field in this State, said Commissioner shall hold a public

hearing thereon, after two days' notice of such hearing published in two daily newspapers that are published nearest the oil field affected and by notice posted on the Court House door of the Parish in which such oil field is located. If the Commissioner shall determine at such hearing that there does exist such condition, he shall appoint a supervisor to serve in such field during the period of overproduction. If those producing oil in such field and the buying agencies therein or a large part of both such producers and buying agencies shall unite in a recommendation to said Commissioner for the appointment as supervisor of a citizen of this State, and also give to such Commissioner assurances to him satisfactory for the payment of the salaries and expenses of such supervisor and his assistants, that the Commissioner shall appoint as supervisor the party so recommended, if in the judgment of said Commissioner he be competent and trustworthy. Except as stated the Commissioner shall have absolute discretion in the selection of such supervisor and in the fixing of his salary at any sum not to exceed five hundred (\$500.00) dollars per month. Unless paid in the manner above indicated the salaries and expenses of the supervisor and his assistants shall be paid by the Commissioner of Conservation. The said Commissioner shall also have power to remove any such supervisor and appoint his successor whenever he may deem such to be advisable. It shall be the duty of said Supervisor, whenever he may think it to be necessary or the Commissioner may order, to ascertain, by actual gauge or otherwise, the amount of the potential production from the wells drilled and the quantities of oil which the buying agencies will from time to time take therefrom to fill their requirements, and to prescribe rules and regulations so as to accord to each producer an opportunity to sell his ratable share of such requirements on the basis as specified in Section 1 above. Subject to review, modification, amendment or annulment as hereinafter provided, all the producers of oil in such field and the agencies buying oil therein shall comply with and observe rules and regulations under the penalties for violation thereof as later herein stated.

SEC. 4. Be it further enacted, etc.:

That the Supervisor may employ such assistants, clerical or otherwise, as may be necessary to the discharge of his duties, and fix their compensation, subject to the approval of the Conservation Commission. In the discharge of his duties the supervisor and his assistants shall have the right to enter upon any lease or other property of any producer in the oil field, and have such control over such property, machinery, and appliances as may be requisite to gauge the wells; and also shall have the right to examine any books, papers or accounts of any oil producer relative to his production, operation, and sales; and of any buying agency relative to the latter operations as such.

SEC. 5. Be it further enacted, etc.:

That all acts of the supervisor and the rules and regulations by him prescribed shall be subject to amendment, change, modification, or annulment by said Commissioner upon hearing after such reasonable notice as he may prescribe. Jurisdiction is conferred upon the district courts of this State to review every action or decision of such Commissioner, and the reasonableness of any order, rule or regulation prescribed or approved by him, except the action of the Commissioner in appointing a supervisor as provided in Section 3 herein, and rules and regulations prescribed by such supervisor shall not be suspended until set aside by the Commissioner or said court. Such review may be had at the instance of any person having an interest in the matter to be reviewed, in the manner and with the same effect as is now or may hereafter be allowed in suits to annul orders of said Commission in other matters over which he has jurisdiction.

SEC. 6. Be it further enacted, etc.:

That if any person shall willfully violate any order, rule or regulation made or provided by said Commissioner or supervisor or of such court of competent jurisdiction unless stayed or suspended he shall be guilty of a misdemeanor, and shall be fined not less than one hundred (\$100.00) dollars nor more than one thousand (\$1,000.00) dollars for each offense, and shall forfeit and pay to the State of Louisiana, not less than one hundred (\$100.00) dollars nor more than one thousand (\$1,000.00) dollars for each day's violation, to be recovered in any court of competent jurisdiction at the suit of the State.

SEC. 7. Be it further enacted, etc.:

That as herein used the words "potential production" mean the amount of petroleum which can be and is actually produced from the wells in the oil field when operated to their full capacity for a reasonable test period not to exceed five consecutive days; "Over production" means that the potential production is in excess of the quantity of oil being taken care of in the oil field; "persons" includes all individuals, partnerships, association of persons and corporations; "producers" includes the lessee or other operator of oil wells, or owner of oil as produced from the well, and also the owner of the royalty therefrom; and "buying agencies" embraces all persons engaged in the business of purchasing oil from the producer, provided that the purchasing by a producer merely of the royalty on his production shall not make such producer a buying agency.

SEC. 8. Be it further enacted, etc.:

That this law is designed through its operation during a period of over-production to conserve the oil, as is manifestly to the public interest, and to provide means whereby all of the producers may have a reasonable opportunity to sell their fair proportion of the market's requirements, and it shall be construed to effectuate these purposes.

SEC. 9. Be it further enacted, etc.:

That if Section 2, or any provision thereof, or if any other section or provision or part of any other section, be declared unconstitutional, or void for any reason, such holding shall not invalidate any other provision or section of this act, and all provisions of any section of this act which are constitutional and valid shall remain in full force and effect.

LAWS 1920, P. 481.

JULY 8, 1920.

ACT NO. 250.

AN ACT granting to the Department of Conservation, created by laws of Louisiana, greater power and authority in the work of conserving the crude petroleum, natural gas and mineral substances mined or produced in the State of Louisiana, giving to the Department of Conservation power and authority to adopt and promulgate, amend and re-adopt, rules and regulations for the drilling, development, sinking, deepening and abandonment of natural gas and oil wells, and to promulgate rules and regulations for the opening and operation of all mines in the State of Louisiana; and to prescribe rules and regulations regulating the production and use of natural gas, and requiring that the gasoline contained in the natural gas used by carbon plants be extracted and saved before such gas be utilized for the making of carbon; empowering and authorizing the Department of Conservation to take charge of, control, or securely cap or plug any natural gas well or oil well wasting oil or gas and not in control; providing for proceedings in the exercise of this authority; and giving a lien and privilege in favor of the Department of Conservation for all reasonable expenses and costs incurred by it, or under its authority, in the closing, capping or plugging of any such uncontrolled or wild well, and extending this lien and privilege to all leases, property and equipment owned by the company, firm or individual owning such wild well, and defining the word "waste" as used in this act; and requiring persons, associations and corporations mining, drilling or operating

oil or gas wells or mines to report to the Department of Conservation from time to time on the output of such wells or mines; prescribing penalties for the violation of this Act and the rules and regulations of the Department of Conservation adopted pursuant hereto; and limiting the amount of fine or term of imprisonment that may be imposed; authorizing and empowering the Department of Conservation to resort to courts for legal, equitable or criminal process to compel obedience and compliance with its rules and regulations; and to enforce any of the provisions of this Act; authorizing the Department of Conservation to appeal from any judgment or decree against it, or any order restraining the Department in the exercise of its authority; granting the right to appeal to any person, association or corporation from any judgment, order or mandate of the Department of Conservation directed against it; and authorizing the determination of the reasonableness of the orders, rules and regulations of the Department of Conservation in any court of competent jurisdiction at the timely instance of any party affected thereby and conferring jurisdiction therefor; making it the duty of the Attorney General, on request, to represent the Department of Conservation, and authorizing the appointment of a District Attorney to appear instead of the Attorney General, under certain conditions; declaring all legal proceedings hereunder to be preference matters entitled to summary trial and disposition in courts of competent jurisdiction; providing for appropriations of funds necessary for the enforcement of this Act, and regulating the issuance of injunctions restraining the Department of Conservation in its control of wild gas wells and providing for injunction bonds therewith.

SEC. 1. Be it enacted, etc.:

That the Department of Conservation, created by the laws of the State of Louisiana, acting through the Commissioner of Conservation, is hereby empowered and directed to adopt and promulgate, pursuant to the provisions of the Constitution and laws of the State of Louisiana and of this Act, such rules and regulations as said Department may deem necessary for the conservation of the crude petroleum, natural gas and mineral substances produced in the State of Louisiana, and to provide rules and regulations for the drilling, development, sinking, deepening, abandonment and operation of oil wells, gas wells and mines for the purpose of conserving the products produced therefrom, and to prevent the waste of such products, and to require persons, associations and corporations mining, drilling or operating such well or mines to report to it from time to time on the output of the wells or mines being operated by them.

SEC. 2. Be it further enacted, etc.:

That the Department of Conservation is authorized by the grant of power in this act to prescribe rules and regulations requiring that the gasoline contained in natural gas used by carbon plants be extracted and saved before such gas be utilized for the making of carbon, where such gas contains sufficient gasoline to make the extraction thereof beneficial or profitable.

SEC. 3. Be it further enacted, etc.:

That the Department of Conservation be and it is hereby given supervision over the production and use of natural gas in connection with the manufacture of carbon black, in other manufacturing enterprises and for domestic consumption; and that power and authority is hereby granted to the Department of Conservation to prepare and promulgate all necessary and reasonable rules and regulations providing for the conservation of natural gas produced for and used in plants manufacturing carbon black, in other manufacturing enterprises and for domestic consumption; hereby especially granting to the Department of Conservation the power to limit the amount of gas which may be withdrawn from all the gas wells in any particular gas field or area to a percentage of the potential capacity of such gas wells as may be reasonably necessary to conserve and safe-guard an adequate supply of natural gas.

SEC. 4. Be it further enacted, etc.:

That in order to further protect the natural gas fields and oil fields in this State, it is hereby declared to be unlawful, and the Department of Conservation shall have the authority to adopt rules and regulations making it unlawful and declaring it to be a nuisance for any person, firm, association, or corporation to negligently permit any natural gas well or oil well to go wild or waste or to become uncontrollable or wasteful, and to provide that the owner or person in possession of any wild, uncontrolled, or wasteful natural gas well or oil well shall, after five (5) days written notice given to such owner or proprietor or person in possession by the Department of Conservation or its agent, be required to make every reasonable and diligent effort to close such well and securely cap or plug it in accordance with the rules and regulations established by the Department of Conservation.

That in the event of the failure of the owner or party in possession of said wild or uncontrolled natural gas well or oil well, within five (5) days after service of the notice above provided for, to begin in good faith the work of closing, capping or plugging said wild or uncontrolled well, and to diligently and skillfully prosecute such work, then the Department of Conservation shall have the superior right to enter into the actual possession and control of the said well and to take charge of the work of closing said wild or uncontrolled natural gas well or oil well, and it shall have the right to proceed, through its own agents or by contract with a responsible contractor, to close or plug the said wild or uncontrolled well, or otherwise prevent the wasteful escape or wasteful loss of natural gas or oil from such well, all at the reasonable expense of the owner or proprietor thereof; and in order to secure to the Department of Conservation the reasonable cost and expense of closing, capping, or plugging such wild well, the possession of the same with sufficient ground adjacent thereto belonging to such owner or proprietor with the rents, revenues and income therefrom, shall be retained by the Department of Conservation until the full and final payment of such costs and expense incurred shall be repaid to the Department of Conservation or the contractor, and when such owner or proprietor or person in possession of such well shall pay such costs, or expenses to the Department of Conservation, less the revenues, rents, and incomes derived therefrom by the Department of Conservation, while same was in the possession of said Department, the Department of Conservation shall, after such well is brought under control, restore possession of said well to the owner; provided that in the event rents, revenues, and income shall not be sufficient to reimburse the Department of Conservation, as provided for in this section, then and in that event, the costs and expense of closing or plugging said wild or controlled or wasteful natural gas well or oil wells shall operate as a lien or privilege in favor of the Department of Conservation upon all of the property of the owner or proprietor of said wild well, except such as is exempt by law, and the Department of Conservation shall proceed to enforce said lien and privilege by suit before any court of competent jurisdiction, the same as any other like civil action, and the judgment so obtained shall be executed in the same manner now provided by law for execution of judgments. Any excess over the amount due the Department of Conservation which the property seized and sold may bring, after payment of court costs shall be paid over to the owner of said wild or uncontrolled well.

SEC. 5. Be it further enacted, etc.:

That the term "waste" as used in this act, in addition to its ordinary meaning shall include underground waste, surface waste, or any unreasonable waste or leakage in the production of crude petroleum, natural gas, or other minerals.

SEC. 6. Be it further enacted, etc.:

That the Department of Conservation shall have the right to appear in court, through its chief officer or other designated agent, or subordinate officer, duly designated by the chief officer to enforce rules and regulations and any provision of this act by civil or criminal process before any court in the State of Louisiana of competent jurisdiction.

Any corporation, partnership, association or individual who shall willfully violate any provision or any rule or regulation adopted by the Department of Conservation, pursuant hereto, upon conviction thereof by any court of competent jurisdiction shall be deemed guilty of a misdemeanor and may be fined not less than fifty (\$50.00) dollars nor more than fifteen hundred (\$1,500.00) dollars or suffer imprisonment for not more than fifteen (15) days in the Parish jail, or both, at the discretion of the court.

SEC. 7. Be it further enacted, etc.:

That the Department shall have the right and power to resort to the courts and through the courts make use of writs of injunction, mandamus, or any lawful process to compel the obedience and compliance with the rules and regulations adopted by it pursuant to the authority of this act, and to enforce any provisions of this act, all without giving bond for the payment of costs. That the right of appeal is hereby granted to the Department of Conservation to any court of competent appellate jurisdiction, from any judgment or decree or order restraining the Department of Conservation from exercising the authority given in this act or the rules and regulations adopted pursuant to same, said appeal or appeals to be prosecuted without giving bond for payment of costs.

No injunction may be issued by any court, to restrain the Department of Conservation, or any of its agents, officers or employees, from carrying out the provisions of Section 4 of this act, except upon rule, after not less than three (3) days notice and on the trial of such rule, which shall be summary, the defendant shall be allowed to introduce evidence to rebut the allegations of the petition, with the right on the part of the plaintiff also to offer evidence; and the injunction should not thereafter issue unless the court shall be satisfied from the evidence submitted, that the plaintiff has made out a prima facie case, and in the order for such injunction, the court shall fix the amount of bond to be furnished by the plaintiff.

SEC. 8. Be it further enacted, etc.:

That if any company, corporation, partnership or individual engaged in the use of natural gas in any manufacturing or industrial enterprise or engaged in the production of or discovery of natural gas or oil, and placed under the supervision of the Department of Conservation by the terms of this act, shall be dissatisfied with any order, rule, or regulation prepared and promulgated by the Department of Conservation under the authority granted under this act, such company, corporation, partnership or individual may, within three months after such order, rule or regulation is made and become effective by the Department of Conservation, and not thereafter, file in a court of competent jurisdiction, at the domicile of the complainant, or the Department of Conservation or in any parish where the said action arose, a petition setting forth therein the particular cause or causes of the objection to the order, rule or regulation of said Department of Conservation so complained of.

All such cases shall be tried in the same manner, subject to the same legal writs and processes, as civil cases (and shall be given precedence over all other civil cases in the said court), and shall be heard and determined as speedily as possible. Any such court shall have the power and authority to affirm the order, rule or regulation of said Department of Conservation so complained of

or to change, modify, alter or set aside the same, as justice may require; provided, that in all cases wherein the enforcement of the said rule or regulation of the said Department of Conservation shall be sought to be enjoined or restrained, such injunction or restraining order shall issue upon the party seeking the same giving such bond, to be executed in favor of the Department of Conservation in such amount and with such surety as the court shall direct.

SEC. 9. Be it further enacted, etc.:

That all civil or criminal prosecutions instituted in the courts of this State by the Department of Conservation or under its direction and authority, and all appeals prosecuted from judgments adverse to the contention of the Department of Conservation, and all appeals taken from the orders and mandates of the Department of Conservation, shall be tried summarily, as the practice in the courts of Louisiana permit, and by preference in said courts.

SEC. 10. Be it further enacted, etc.:

That it is hereby made the duty of the Attorney-General to represent the Department of Conservation, whenever requested by it, in any of the courts of this State, but the Attorney-General may direct a District Attorney to appear in his place and stead in any case the Department of Conservation moves to or institutes before a court, within the judicial district where said District Attorney resides.

SEC. 11. Be it further enacted, etc.:

That the Department of Conservation acting through the Commissioner of Conservation, shall have power to amend, re-adopt, and prescribe new rules and regulations, from time to time, whenever in the judgment of the said Department the same are necessary.

SEC. 12. Be it further enacted, etc.:

That the funds necessary for the enforcement of this act be appropriated from funds derived from the license imposed on the business of severing natural resources, as the Legislature may appropriate or otherwise provide.

SEC. 13. Be it further enacted, etc.:

That this act shall take effect from and after its passage and promulgation, and that all laws in conflict herewith are hereby repealed.

MICHIGAN.

CONTENTS.

	Page.
Oil and gas -----	163
Sale of State lands—Oil and gas reserved—Leasing -----	163
Taxation—Valuation of oil and gas rights -----	163
Oil companies -----	164
Prospecting and refining -----	164
Pipe line companies -----	164
Incorporation—Transportation—Oil and gas -----	164

OIL AND GAS.

SALE OF STATE LANDS—OIL AND GAS RESERVED—LEASING.

TAXATION—VALUATION OF OIL AND GAS RIGHTS.

SALE OF STATE LANDS—OIL AND GAS RESERVED—LEASING.

COMPILED LAWS 1915, VOL. 1, P. 428.

STATE LAND OFFICE AND ITS MANAGEMENT.

(456) SEC. 12. When any sales are made by and under the direction of the commission the deeds by which said lands are conveyed shall reserve all mineral, coal, oil, and gas rights to the State, and said rights shall be owned by the State; but said commission shall have power to make contracts with private individuals or corporations for taking * * * gas or oil from said lands upon a royalty basis upon such terms as to said commission may be deemed just and equitable. Said commission shall also have power to provide that all deeds issued for lands along water courses and streams shall contain a clause reserving the rights of ingress and egress over and across said lands: Provided, however, That whenever an exchange of land is made, either with the United States Government, a corporation, or an individual, for the purpose of consolidating the State forest reserves, the public domain commission is authorized to direct the commissioner of the State land office to issue such deeds to the United States Government, corporation or individual without reserving to the State the * * * oil and gas right and the rights of ingress and egress. (1913, p. 633, Act. 333; May 13.)

TAXATION—VALUATION OF OIL AND GAS RIGHTS.

COMPILED LAWS 1915, VOL. 1, P. 1645.

(ACT OF AUGUST 24, 1915, LAWS 1915, P. 197.)

AN ACT to repeal act number 51 of the public acts of 1911, entitled "An act to provide for the assessment, valuation and taxation of * * * gas * * * oil, mining, or other rights reserved in or to any lands in this State, or to * * * gas, and oil contained therein against the owner thereof as an interest in real property in any and all cases where any mineral right in or to the * * * oil * * * valuable deposits, minerals contained therein, shall be or shall heretofore have been reserved to the grantor or any other person in any conveyance thereof," and to authorize and direct the auditor general to cancel all taxes heretofore or hereafter assessed and all sales heretofore or hereafter made under the provisions of said act.

The people of the State of Michigan enact:

(4251) SEC. 1. Act number 51 of the public acts of 1911, entitled "An act to provide for the assessment, valuation and taxation of * * * gas * * *

oil, mining, or other rights reserved in or to any lands in this State or to the * * * gas * * * and oil contained therein against the owner thereof as an intrest in real property in any and all cases where any mineral right in or to the * * * oils * * * valuable deposits, minerals contained therein, shall be or shall heretofore have been reserved to the grantor or any other person in any conveyance thereof," is hereby repealed. (Act 119, 1915, p. 197, August 24.)

(4252) SEC. 2. The auditor general is hereby authorized, empowered, and directed to cancel all taxes remaining undischarged as appears from the records of his office or that may be hereafter returned to his office upon the assessment of * * * gas, * * * oil, mining, or other rights reserved in or to any lands in this State assessed and returned delinquent for such taxes under the provisions of act number 51 of the public acts of 1911.

(4253) SEC. 3. The auditor general is hereby authorized to cancel the sale of any and all mineral reservations heretofore or hereafter made under the provisions of act number 51 of the public acts of 1911: Provided, That in case any such mineral reservations are sold to any individual, firm, or corporation, it shall be the duty of the auditor general after the cancellation of such sales, to refund to such purchaser the amount paid to purchase, together with interest thereon from the date of purchase to the date of cancellation at the rate of six per cent per annum.

(4254) SEC. 4. That upon the cancellation of the amount of such taxes, the State, county, township, city or village shall stand the loss of their portion of such taxes.

OIL COMPANIES.

PROSPECTING AND REFINING.

COMPILED LAWS 1915, VOL. 2, P. 3300.

AN ACT to provide for the incorporation of companies for the purpose of prospecting for, manufacturing or refining oil.

The people of the State of Michigan enact:

(9084) SEC. 1. Any number of persons, not less than three, desiring to become incorporated for the purpose of prospecting for, manufacturing or refining oil, may, by complying with all the provisions of act number 113 of the public acts of 1877, being chapter 187 of the Compiled Laws of 1897, entitled "An act to revise the laws providing for the incorporation of companies for mining, smelting or manufacturing iron, copper, silver, mineral coal and other ores and minerals, and to fix the duties and liabilities of such corporations," and the acts amendatory thereof, with their successors and assigns, may become a body politic and corporate with all the powers, duties and liabilities of corporations organized under the act above mentioned: Provided, however, That the capital stock of such corporation may be not less than five thousand dollars nor more than twenty-five thousand dollars, the par value of the shares to be not less than one dollar nor more than ten dollars for each share. (Act 113 of 1877, above referred to, is compilers' sections 8967 to 9011.)

PIPE-LINE COMPANIES.

INCORPORATION—TRANSPORTATION—OIL AND GAS.

COMPILED LAWS 1915, VOL. 2, P. 3134.

AN ACT to authorize the incorporation of pipe-line companies for the transportation of oil, petroleum and gas.

(8615) SEC. 1. The people of the State of Michigan enact, That any number of persons not less than five may form a company for the purpose of con-

structing and operating a line or lines of pipe for the conveying and transportation therein of oil, petroleum and gas, or either of them; and for such purpose such persons shall make and sign articles of association in which shall be set forth the name of the corporation, the number of years the same is to be continued, not exceeding thirty years; the name of the county within this State where the principal office of said corporation is to be located; the amount of capital stock of said company, which shall not be less than one hundred thousand dollars, and the number of shares of which said capital stock shall consist, and the names and places of residence of the directors of said company, the president, treasurer and secretary thereof, who shall manage its affairs for the first year and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares he agrees to take in said company. Whenever two-thirds of the proposed capital stock of said pipe line shall be subscribed, the articles of association shall be filed in the office of the secretary of state and a certified copy thereof, under the seal of the secretary of state, shall be recorded in the office of the register of deeds for the county in which the principal office of said company is located, and thereupon the persons who have subscribed to such articles, and all other persons who shall from time to time thereafter subscribe to or become holders of the capital stock of said corporation in the manner to be prescribed in its by-laws, shall be a body corporate by the name described in such articles, and shall be capable of suing and being sued, and service of process may be had on any agent or officer of said corporation found within this State, and may have a common seal and make and alter the same at pleasure and be capable in law of purchasing, holding and conveying any real and personal property whatever necessary for the construction, maintenance, and operation of pipe lines. (How. 3751a; C. L. 1897, 6509.)

(8616) SEC. 2. A copy of any articles of association filed with the secretary of state in pursuance of this act and duly certified to be a true copy by the secretary of state or his deputy, shall in all courts in this State be prima facie evidence of the incorporation of such company and of the facts therein stated. (How. 3751b; C. L. 1897, 6510.)

(8617) SEC. 3. The stock, property, affairs and business of every corporation organized under this act shall be managed by a board of directors of not less than three nor more than nine, who shall be stockholders, and who shall be chosen by the stockholders of said company at such time and place as shall be provided by the by-law of said corporation; and said directors shall select from their number the president and treasurer, and shall also appoint a secretary and such other officers or agents as the by-laws of the corporation shall prescribe. (How. 3751c; C. L. 1897, 6511.)

(8618) SEC. 4. It shall be lawful for any corporation organized under this act, by a vote of the majority of its stockholders, at any regular meeting or special meeting called by the board of directors for that purpose, to increase its capital stock from time to time as it may deem it necessary. A certificate of the amount of increase of capital stock shall be filed in the office of the secretary of state and recorded in the office of the register of deeds for the county where its principal office is located. It shall also have power in the same manner to amend its articles of association in any other manner in conformity with the provisions of this act. (How. 3751d; C. L. 1897, 6512.)

(8619) SEC. 5. Any corporation formed under this act shall have power to lay pipe or conductors for transporting and conveying oil, petroleum and gas, or either of them, through the streets or roads of any township, village or city,

with the consent of the municipal authorities of the city or village, or of the highway commissioner of the township, under such reasonable regulations as may be agreed upon by said company and said municipal authorities or highway commissioner, as the case may be: Provided, That permission shall not be granted to any company to lay a pipe line, under this act, in any highway or street, in such manner as to interfere with the use of said highway or street by the public or in any way impair the use of the same as a public highway. (How. 3751e; C. L. 1897, 6513.)

(8620) SEC. 6. Companies organized under this act are authorized to issue its bonds or other evidence of indebtedness and to secure the payment of the same by a mortgage or deed of trust of its corporate property, privileges, and franchise. (How. 3751f; C. L. 1897, 6514.)

NEBRASKA.

CONTENTS.

	Page.
Pipe line companies-----	167
Common carriers—Transportation—Right of way—Procedure and regulations-----	167
Wells-----	169
Inspection of borings-----	169

PIPE-LINE COMPANIES.

COMMON CARRIERS—TRANSPORTATION—RIGHT OF WAY—PROCEDURE AND REGULATIONS.

LAWS 1917. P. 284.

APRIL 19, 1917.

CHAPTER 112.

AN ACT to amend section 5745 of the Revised Statutes of Nebraska for the year 1913, and to provide that pipe lines for the transportation, transmission or conveying of crude oil, petroleum or the products thereof, or gases, from one point in the State of Nebraska to another point in the State of Nebraska for a consideration are "Common carriers," and to place them under the control and subject to regulation by the State Railway Commission of the State of Nebraska, and to repeal said original section.

Be it enacted, etc.:

5745. SEC. 1. Any company, corporation or association, formed or created for the purpose of transporting, transmitting, or conveying crude oil, petroleum or the products thereof, or gases, from one point in the State of Nebraska to another point in the State of Nebraska for a consideration are hereby declared to be "Common carriers" and any such company, corporation, or association desiring or requiring a right of way or right of ways for the laying and maintaining of any pipe lines or lines for such purpose within the State of Nebraska, and being unable to agree with the owner or lessee of any land, lot, real estate, or right of way on the amount of compensation for the use and occupancy of so much of any lot, land, real estate or right of way as may reasonably be necessary for the laying, relaying and maintenance of any such pipe line shall have the right to acquire the same for such purpose, as herein-after provided. Such company, corporation, or association is hereby placed under the control and subject to regulation by the State Railway Commission of the State of Nebraska, and subject to Article X of chapter 67 (66) of the Revised Statutes of Nebraska for the year 1913 so far as the provisions thereof are applicable to pipe lines as common carriers.

SEC. 2. That section 5745 of the Revised Statutes of Nebraska for the year 1913, is hereby repealed.

GENERAL LAWS 1913, P. 1323.

CHAPTER 59.

ARTICLE II.

5475. SEC. 21. Right of way for pipe line.

Any company, corporation or association formed or created for the purpose of transporting, transmitting or conveying petroleum or other like oil, and

desiring or requiring a right of way for the laying and maintaining of any pipe line or lines for such purpose within the State of Nebraska, and being unable to agree with the owner or lessee of any land, lot, or right of way on the amount of compensation for the use and occupancy of so much of any lot, land, real estate or right of way as may reasonably be necessary for the laying, relaying and maintenance of any such pipe line, shall have the right to acquire the same for such purpose, as hereinafter provided. (1903, p. 364; Ann. 6352; Comp. 4575.)

5476. SEC. 22. Petition to county judge.

Application shall be made in the form of a petition by any such company, corporation or association to the county judge of the county wherein such lot, land, real estate or right of way is situated, in which petition the applicant shall describe the portion or portions of any lot, land, real estate or right of way necessary for the laying, relaying and maintenance of any such pipe line, and state the name or names of the owners or lessees of any such lot, land, real estate or right of way, and also state that the portions of the same so described are necessary and required for the laying, relaying and maintenance of such pipe line, and shall make a deposit with said county judge of the sum of one hundred dollars to cover the cost of such proceeding, whereupon it shall be the duty of the county judge to appoint three disinterested commissioners who shall be freeholders of such county to make personal examination of the portions of such lots, lands, real estate and right of way described in the petition, and of each thereof, and to determine the damages sustained by such owners or lessees by reason of the laying, relaying and maintenance of such pipe line. (1903, p. 365; Ann. 6353; Comp. 4576.)

5477. SEC. 23. Commissioners—duties—award.

The commissioners so appointed by the county judge shall each file with such judge an oath in writing that he will personally examine the lots, lands, real estate and right of way described in the petition of the applicant, and will fairly, honestly and impartially determine the damages respectively to the owners and lessees of such lots, lands, real estate or right of way by reason of the laying, relaying and maintenance of such pipe lines. It shall be the duty of the commissioners to give to such owners and lessees at least ten days' notice in writing of their appointment as such commissioners and of the time and place when and where the owners and lessees can be heard with reference to their respective claims for damage by reason of the laying, relaying, and maintenance of said pipe line. In the event that any of the owners or lessees can not be served personally with such notice within the county in which such lots, lands, real estate and right of way are situated the notice herein required shall be given by publication of the same for two weeks in a newspaper of general circulation published within such county.

The examination and award of damages herein provided for shall be made and by the commissioners reported to the county judge within sixty days from the time of their appointment, and such award of damages shall be final and conclusive on all parties to the proceedings unless an appeal is taken as hereinafter provided. (1903, p. 365; Ann. 6354; Comp. 4577.)

* * * * *

5480. SEC. 26. Right to cross roads.

Any such company, corporation or association in the laying, relaying and maintenance of any such pipe line within the State of Nebraska shall have the right to enter upon and cross with such pipe line any public road or highway, and, under such reasonable regulations and restrictions as may be prescribed

by the county board of each county, shall have the right in such county to lay such pipe line in and along any public road or highway. (1903, p. 366; Ann. 6357; Comp. 4580.)

5481. SEC. 27. Payment of award vests right.

Upon payment of the amount finally awarded to the owner or lessee of any lot, land, real estate or right of way to the county judge or clerk of the district court in which such proceedings are had for the use of such owner or lessee and the cost of the proceedings, the applicant shall be vested with the right to lay, relay and maintain such pipe line through the lot, land, real estate, or right of way described in the proceedings and, notwithstanding any appeal taken as herein authorized, such applicant shall have the right to lay such pipe line upon depositing with the county judge for the use and benefit of the owner or lessee entitled to the same the amount of the award as determined by the commissioners: Provided, however, nothing contained in this article shall be construed as granting to any company, corporation or association any right to obtain a right of way within the corporate limits of any incorporated city or village. (1903, p. 367; Ann. 6358; Comp. 4581.)

WELLS.

INSPECTION OF BORINGS.

LAWS 1917, P. 576.

APRIL 21, 1917.

CHAPTER 238.

AN ACT relating to the inspection and records of well drilling made in Nebraska, and to declare an emergency.

Be it enacted, etc.:

SEC. 1. Conservation Commission—Log of well borings.

The State Conservation and Welfare Commission shall secure and preserve the logs of deep wells drilled in the State, and preserve specimens from each stratum, member, or formation penetrated in said drillings or borings.

SEC. 2. Inspection of borings.

The State Conservation and Welfare Commission is hereby authorized and given the right to inspect such drillings at any time during their progress and said commission may require the person or persons in charge of the drilling or prospecting to submit full data in regard to the specimens and logs of the wells or borings, and deliver to said commission, specimens from each stratum, member or formation penetrated in said drillings or borings.

SEC. 3. Labels.

The logs of wells and specimens secured therefrom shall be properly labeled, described and preserved by said Conservation and Welfare Commission for future use by the Commonwealth.

SEC. 4. Emergency.

Whereas an emergency exists, this act shall be in force and effect from and after its passage and approval.

NEVADA.

CONTENTS.

	Page.
Oil and gas-----	170
Bounty for production—Payment and reimbursement-----	170
Oil and gas lands-----	171
Patent as placer claim-----	171
Patent to assignee-----	171
Pipe lines-----	172
Eminent domain-----	172

OIL AND GAS.

BOUNTY FOR PRODUCTION—PAYMENT AND REIMBURSEMENT.

LAWS 1901, P. 86.

REVISED LAWS 1912, VOL. 1, P. 214.

MARCH 19, 1901.

712. Bounty for petroleum, natural gas, artesian water.

SEC. 1. Any person who first produces five barrels of crude petroleum that is the natural product of the State of Nevada shall receive as a bounty from the State the sum of one thousand (\$1,000) dollars. The person who first discovers natural gas in the State of Nevada to the extent of no less than one thousand cubic feet shall receive a bounty of one thousand (\$1,000) dollars from the State. The first person to sink a well in the State of Nevada not less than six inches in diameter at the bottom, to the depth of one thousand (1,000) feet shall receive a bounty of twenty-five hundred (2,500) dollars from the State: Provided, That such well shall flow at least sixty gallons of water per minute.

713. Application for bounty, how filed.

SEC. 2. The person who applies for any of the bounties under this act shall file the application with the chairman of the board of county commissioners of the county where the well is situated, and the members of the board shall examine and measure the well and quantity of oil, gas, or water mentioned in section 1 of this act, and if all the conditions have been complied with and if they consider the discovery a bona fide discovery, or properly coming under the provisions of this act they shall certify to the same under oath and forward the claim certified and endorsed to the clerk of the State board of examiners, and the claim after being passed upon and audited by the State board, or a majority thereof, shall be paid as other claims are paid. The warrant shall be drawn by the State controller and the treasurer shall pay the same.

714. State to be reimbursed, when.

SEC. 3. Any person receiving a bounty under this act shall enter into a contract with the State that he or she will, in case the oil, gas or water found is developed in sufficient quantities to become marketable or is sold in any way or bartered for any valuable consideration, that the party so disposing of it shall reimburse the State to the full extent of the bounty received.

715. Action on failure to reimburse.

SEC. 4. A failure on the part of any of the beneficiaries of this act to so reimburse the State, provided the oil, gas or water is sold for a sufficient sum to meet such obligation, shall constitute a valid cause of action against the party or parties in default, and on the authority of the State board of examiners, the

attorney general shall institute suit for the amount due, and any money or valuable consideration received by any of the beneficiaries of this act, even should it be a less sum than the amount of the bounty, shall be considered due the State under this act, with ten per cent interest per annum from the time the money or valuable consideration was received to the time of settlement, allowing thirty days in which to make settlement after the sale of the product or the property.

716. Expenses of investigation.

SEC. 5. Should the county commissioners be put to expense in the investigation of the wells, the cost of the same shall be paid by the owner of the well, and be a lien upon the bounty money.

717. Bounty, how paid.

SEC. 6. The bounty shall be first paid to the clerk of the board of county commissioners forwarding the claim to the State, and the warrant issued by the controller shall be drawn in his name, and not subject to attachment.

OIL AND GAS LANDS.

PATENT AS PLACER CLAIM.

PATENT TO ASSIGNEE.

PATENT AS PLACER CLAIM.

REVISED LAWS 1912, VOL. 1, P. 702.

2394. Entry and patenting of lands containing petroleum and other mineral oils under placer mining laws.

Any person authorized to enter lands under the mining laws of the United States may enter and obtain patent to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims: Provided, That lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this act the same as if such filing, claim, or improvement were subsequent to the date of the passage hereof. (Act approved February 11, 1897, 29 Stats., 526.)

PATENT TO ASSIGNEE.

REVISED LAWS 1912, VOL. 1, P. 916.

MARCH 2, 1911.

AN ACT to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest.

3178. Assignee or grantee of land containing oil or gas located under mining laws, may obtain patent, when—160-acre limitation—Proviso.

In no case shall patent be denied to or for any lands heretofore located or claimed under the mining laws of the United States containing petroleum, mineral oil, or gas solely because of any transfer or assignment thereof or of any interest or interests therein by the original locator or locators, or any of them, to any qualified persons or person, or corporation, prior to discovery of oil or gas therein, but if such claim is in all other respects valid and regular, patent therefor not exceeding one hundred and sixty acres in any one claim shall issue to the holder or holders thereof, as in other cases; provided, however, that such lands were not at the time of inception of development on or under such claim withdrawn from mineral entry.

PIPE LINES.

EMINENT DOMAIN.

REVISED LAWS 1912, VOL. 2, P. 1639.

5606. May be exercised in behalf of what uses.

SEC. 664. Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses: * * *

6. * * * natural gas or oil pipe lines, tanks, or reservoirs. * * *

NEW JERSEY.

CONTENTS.

	Page.
Eminent domain-----	173
Pipe-line companies—Rights of way—Power to acquire-----	173
Laying pipes under streams and waters-----	173
Public utilities-----	175
Gas and pipe-line companies—Regulations-----	175
Taxation-----	176
Gas, oil, and pipe-line companies—Schedule—License tax-----	176

EMINENT DOMAIN.

PIPE-LINE COMPANIES—RIGHTS OF WAY—POWER TO ACQUIRE.

LAYING PIPES UNDER STREAMS AND WATERS.

PIPE-LINE COMPANIES—RIGHTS OF WAY—POWER TO ACQUIRE.

LAWS 1918, P. 502.

MARCH 1, 1918.

CHAPTER 170.

AN ACT to authorize pipe-line companies, associations and corporations, not having power to take land or other property necessary for public use for right of way, to exercise such power.

Be it enacted, etc.:

1. Pipe-line companies, associations and corporations not having power to take land or other property necessary for public use for right of way, shall be and hereby are authorized to acquire land and other property necessary for public use for right of way, in the manner and under the terms, limitations and restrictions prescribed by an act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use (revision of 1900)," and the amendments thereof and supplements thereto.

2. Nothing herein contained shall be construed to repeal, limit or affect an act entitled "An act to establish a State water supply commission, and to define its powers and duties, and the conditions under which waters of this State may be diverted," approved June 17th, 1907, or any amendment thereof or supplement thereto, and this act shall take effect immediately.

LAYING PIPES UNDER STREAMS AND WATERS.

COMPILED STATUTES 1709-1910, VOL. 3, P. 3941.

AN ACT to regulate the constructing and maintaining, across the fresh-water streams of this State, of pipe lines through which petroleum is conveyed, and to place such pipe lines under the control of the State commissioners of water supply. (P. L. 1884, p. 293.)

5. Definition of term "pipe line."

SEC. 1. That the term "pipe line" wherever used in this act, shall mean any conduit through which petroleum or any of its products is conveyed or intended so to be. (P. L. 1884, p. 293.)

6. Construction across fresh-water streams.

SEC. 2. That hereafter it shall not be lawful to construct any pipe line across any fresh-water streams in this State except in the manner to be approved by the State commissioners of water supply. (P. L. 1884, p. 294.)

7. Reconstruction.

SEC. 3. That if any pipe line now existing or hereafter constructed is or shall be so constructed that there is danger of the escape of its contents into any of the fresh-water streams of this State, it shall be reconstructed or removed in accordance with the provisions of this act. (P. L. 1884, p. 294.)

8. Commissioners of water supply to give notice of hearing.

SEC. 4. That whenever the said commissioners shall be of the opinion that any pipe line now existing, or hereafter constructed, is so constructed that there is danger of the escape of its contents into any of the fresh-water streams, springs, rivers, or the tributaries thereof, or in the waters of any lake, pond, storage reservoir or conduit from which water is drawn, of this State, they shall give notice in writing of such opinion to the owners or users of such pipe line, specifying the location and extent of the portion of such pipe line which, in their opinion, is so constructed, and naming a time and place to hear such owners or users on the subject; if either of such owners or users be a corporation, such notice may be served on any of its officers, agents or servants. (P. L. 1884, p. 294.)

9. Notice of decision.

SEC. 5. That if, after having afforded the owners or users of such pipe line an opportunity to be heard, on such notice, said commissioners shall decide that the portion of such pipe line, specified in such notice, is so constructed that there is danger of the escape of its contents into any of the fresh-water streams of this State, or into the springs, rivers, or the tributaries thereof, or in the waters of any lake, pond, storage reservoirs, or conduit from which water is drawn, they shall give like notice of such decision. (P. L. 1884, p. 294.)

10. Specifications for reconstruction.

SEC. 6. That within fifteen days after such service of notice of such decision, the owners or users of such pipe line shall submit to said commissioners written specifications for the reconstruction of the portion of such pipe line specified in such decision; the said commissioners shall thereupon give like notice to such owners or users of approval of such specifications, or if they do not approve the same, then they shall specify by like notice the manner of reconstruction thereof, which they do approve, and said portion of said pipe line shall thereupon be reconstructed by the owners or users thereof, at their own expense, in the manner approved by said commissioners. (P. L. 1884, p. 294.)

11. Removal of pipe line.

SEC. 7. That if the reconstruction, in the manner approved by said commissioners of the portion of such pipe line specified in their decision, shall not be begun within thirty days after service of the last-named notice, and continued with such dispatch as to the said commissioners shall appear reasonable, then it shall be the duty of the said commissioners to remove, or cause the removal, of the portion of such pipe line specified in their decision, or any part thereof, and the cost and expense of such removal shall be recoverable at law in any court of competent jurisdiction, by the said commissioners, in the name of the State of New Jersey, from the owners or users of such pipe line. (P. L. 1885, p. 295.)

12. Authority to enter on lands for purpose of removing pipe line.

SEC. 8. That in such case said commissioners are hereby authorized to enter upon any lands, bridges or structures for the purpose of removing any part of the portion of such pipe line specified in their decision, and shall not be liable for any damage done to said lands, bridges or structures by such removal, nor for any damage resulting from such removal, but the same shall

be recoverable at law in any court of competent jurisdiction, from the owners or users of such pipe line. (P. L. 1884, p. 295.)

* * * * *

14. Penalty for failure to reconstruct as approved by commissioners; notice; damages.

SEC. 10. That if any pipe line shall hereafter be constructed or maintained across any fresh-water stream in this State, except in the manner approved by the State commissioners of water supply, the owners or users so constructing or maintaining the same shall be liable to a penalty of five hundred dollars for each day they shall delay reconstructing the same, as shall be or shall have been approved by the said commissioners, according to the provisions of this act, which shall be recoverable at law in any court of competent jurisdiction, by the said commissioners, in the name of the State of New Jersey, from the owners or users of such pipe line; provided, however, that the owners of pipe lines now constructed shall not be liable to this penalty until after due notice and hearing, as provided in this act; and provided further, that nothing shall be so construed in this act as to relieve the owners or users of pipe lines from liability for damages which may ensue by reason of breakage or leakage, notwithstanding said pipes were constructed according to the direction and with the approval of the State commissioners of water supply. (P. L. 1884, p. 296.)

15. State commissioners of water supply defined.

SEC. 11. That the State commissioners of water supply, referred to in the title and body of this act, are the commissioners appointed under chapter 189, laws 1882, and their successors however appointed or designated. (P. L. 1884, p. 296.)

COMPILED STATUTES 1709-1910, VOL. 4, P. 4399.

46. Laying pipes under tidal waters; consent of governor and commissioners required.

SEC. 1. It shall be unlawful for any person or corporation to lay any pipe or pipes on any of the lands of the State lying under tidal waters without the consent or permission of the governor and the board of riparian commissioners of this State first had and obtained in writing; provided, that nothing in this act contained shall be construed to apply to lands under the waters of the Atlantic Ocean. (P. L. 1910, p. 154.)

PUBLIC UTILITIES.

GAS AND PIPE LINE COMPANIES—REGULATIONS.

COMPILED STATUTES 1709-1910, VOL. 3, P. 4283.

AN ACT to create a board of public utility commissioners for the State of New Jersey, and to prescribe its powers and duties. (P. L. 1907, p. 448.)

165. Number; appointment.

SEC. 1. The governor, with the advice and consent of the Senate, shall appoint three persons, citizens of this State, not under thirty years of age, who shall constitute and be a board of railroad commissioners, invested with the powers and duties hereinafter specified. * * *

* * * * *

181. Jurisdiction of board over public utilities.

SEC. 4. The jurisdiction of said board is hereby extended to and over all public utilities, which term is herein defined to include every * * * pipe line, gas, * * * corporation, association, or joint stock company, operating

within the State of New Jersey for public use, under privileges granted by the State or by any municipality thereof. (P. L. 1910, p. 56.)

182. Supervision over public utilities; enforcement of laws.

SEC. 5. Said commission shall have general supervision over all public utilities as herein defined, and shall have power, after hearing upon notice, by order in writing:

(a) To require every public utility as herein defined to comply with the laws of this State relating thereto, and to perform the public duties imposed upon it thereby.

(b) To require every public utility, as herein defined, to furnish safe and adequate service.

(c) To require every public utility, as herein defined, to keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end to require every such public utility of the same class to adopt a uniform system of accounting.

(d) To direct any public utility, as herein defined, found to be granting rebates, or other unjust, unfair, and unreasonable discriminations to immediately cease therefrom.

Said commission shall also have power to investigate any accident happening in connection with the operation of any public utility, as herein defined; to hear and examine complaints concerning rates charged by any public utility, and to make such recommendations as it may see fit concerning accidents and rates.

In furtherance of the foregoing powers, said commission shall also have power to compel the attendance of witnesses and the production of papers, accounts and documents, to swear witnesses and issue subpoenas, all in the manner provided in the act to which this is an amendment and supplement. (P. L. 1910, p. 57.)

* * * * *

185. Approval of local grants of franchises.

SEC. 8. No privilege or franchise hereafter granted to any public utility, as herein defined, by any local, municipal or county governing body shall be valid until approved by said board, whenever it shall, after due hearing, determine that such privilege or franchise is necessary and proper for the public convenience. (P. L. 1910, p. 58.)

* * * * *

187. Effect of act.

SEC. 10. Nothing in this act shall be held to modify or repeal any of the provisions of the act to which this is an amendment and supplement, except in so far as such provisions are inconsistent with this act. (P. L. 1910, p. 59.)

TAXATION.

GAS, OIL, AND PIPE LINE COMPANIES—SCHEDULE—LICENSE TAX.

COMPILED LAWS 1709-1910, VOL. 4, P. 5286.

AN ACT to provide for the imposition of State taxes upon certain corporations and for the collection thereof. (P. L. 1884, p. 232.)

501. Certain corporations to pay annual tax to State as license.

SEC. 1. That every * * * gas * * * oil or pipe line company, * * * shall pay an annual tax, for the use of the State, by way of a license for its corporate franchise, as hereinafter mentioned. * * * (P. L. 1884, p. 232, as amended P. L. 1892, p. 136.)

502. Officers of corporations to make annual report to State board of assessors—Statement.

SEC. 2. That on or before the first Tuesday of May next, and annually thereafter, it shall be the duty of the president, treasurer or other proper officer of every corporation of the character specified in the preceding section, to make report to the State board of assessors, appointed and to be appointed under the act entitled "An act for the taxation of railroad and canal property," stating specifically the following particulars, namely each * * * oil or pipe line company engaged in the transportation of oil or crude petroleum shall state the gross amount of its receipts from the transportation of oil or petroleum through its pipes or in and by its tanks or cars in this State during the same time. * * * (P. L. 1884, p. 233, as amended P. L. 1892, p. 136.)

* * * * *

504. Amount of tax to be paid—Exception of specified corporations.

SEC. 4. That * * * each oil or pipe line company shall pay to the State an annual license fee or franchise tax at the rate of eight-tenths of one per centum upon the gross amount of its receipts so returned or ascertained. * * * If any oil or pipe line company has part of its transportation line in this State and part thereof in another State or States, such company shall return a statement of its gross receipts for transportation of oil or petroleum over its whole line, together with a statement of the whole length of its line and the length of its line in this State; such company shall pay an annual license fee or franchise tax to the State at the aforesaid rate upon such proportion of its said gross receipts as the length of its line in this State bears to the whole length of its line. * * * (P. L. 1884, p. 234, as amended P. L. 1891, p. 150, and P. L. 1892, p. 137.)

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NEW MEXICO.

CONTENTS.

	Page.
Oil and gas wells-----	178
Casing and plugging—Regulations-----	178
Oil lands-----	179
State lands—Classification and valuation-----	179
State lands—Leases—Limited patents-----	180
Pipe lines-----	181
Eminent domain—Right of way—Procedure-----	183

OIL AND GAS WELLS.

CASING AND PLUGGING—REGULATIONS.

STATUTES 1915, P. 1163.

CHAPTER LXXXI.

OIL AND GAS.

SEC. 3986. Wells—Mode of casing.

SEC. 1. That the owner or operator of any well put down for the purpose of exploring for and producing oil or gas shall, before drilling into the oil or gas bearing rock, incase the well with good and sufficient casing, and in such manner as to exclude all surface or fresh water from the lower part of such well, and from penetrating the oil or gas bearing rock. Should any well be put down through the first into a lower oil or gas bearing rock, the same shall be cased in such manner as will exclude all fresh or salt water from both upper and lower oil or gas bearing rocks penetrated. (Act of June, 1912; Laws 1912, ch. 25, sec. 1.)

SEC. 3987. Wells—Plugging.

SEC. 2. The owner of any well, when about to abandon or cease operating the same, for the purpose of excluding all fresh or salt water from penetrating the oil or gas bearing rocks, and before drawing the casing, shall fill the well with sand or rock sediment to the depth of ten feet above the top of each oil or gas bearing rock, and drive therein a round tapered, seasoned wooden plug at least two feet in length, and in diameter equal to the full diameter of the well below the casing, and immediately upon drawing the casing shall fill in on top of such plug with sand or rock sediment to the depth of five feet, and again drive into the well a round wooden plug three feet in length, the lower end tapering to a point and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well above the point at which the casing rested and the plug is driven; and after such plug has been driven, the well shall be filled with sand or rock sediment to the depth of not less than twenty feet. (Act of June 8, 1912; Laws 1912, ch. 25, sec. 2.)

SEC. 3988. Wells—Abandoned—Failure to plug.

SEC. 3. Whenever any person may be injured by the neglect or refusal to comply with the provisions of the preceding section, it shall be lawful for such

person, after notice to the owner, lessee or caretaker of the premises upon which such well is located, to enter upon and fill up and plug such well in the manner provided in this chapter, and thereupon to recover the expense thereof from the person or persons whose duty it was to plug or fill up such well in like manner as debts of such amounts are recoverable, and shall have a lien upon the fixtures and machinery and leasehold interests of the owner or operator of such well. (Act of June 8, 1912; Laws 1912, ch. 25, sec. 3.)

SEC. 3989. Wells—Failure to case or plug—Penalty.

SEC. 4. Any person, owner, driller, or operator violating the provisions of the first or second section of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, at the discretion of the court. (Act of June 8, 1912; Laws 1912, ch. 25, sec. 4.)

OIL LANDS.

STATE LANDS—CLASSIFICATION AND VALUATION.

STATE LANDS—LEASES—LIMITED PATENTS.

STATE LANDS—CLASSIFICATION AND VALUATION.

LAWS 1919, P. 155.

MARCH 15, 1919.

CHAPTER 78.

AN ACT providing for the classification and valuation of State lands, and authorizing the commissioner of public lands to make such classification and valuation.

Be it enacted, etc.:

SEC. 1. Whereas the State is the owner of nearly 10,000,000 acres of land, scattered throughout its entire area, and

Whereas it is deemed to be in the interests of proper administration of such lands that detailed information with respect to their character and value be available for the purpose of securing to the State a just and fair revenue from rentals and sales of such lands and their products, and

Whereas no such detailed data and information are now in possession of the commissioner of public lands as are necessary and required by him for the just and proper administration of said lands.

SEC. 2. * * * And the commissioner of public lands is further authorized to classify the lands of the State as mineral bearing, or otherwise, and to ascertain the possibilities of the State's mineral land for development in the production of coal, petroleum or other minerals therein contained. * * *

SEC. 3. For the purpose of carrying into effect the provisions of this act, the commissioner of public lands is authorized to install in his office such a system of maps, plats and tract books as shall be necessary and convenient for properly recording, in readily accessible form, such data as he may obtain, pertaining to the character of the State's lands.

SEC. 4. That it is necessary for the preservation of the public peace, health and safety of the inhabitants of the State of New Mexico, that this act take effect and be in full force and effect from and after its passage and approval.

STATE LANDS—LEASES—LIMITED PATENTS.

LAWS 1919, P. 193.

MARCH 17, 1919.

CHAPTER 98.

AN ACT providing for the leasing of State lands for mineral purposes, and providing for the issuance of limited patents for mineral lands, and for other purposes.

Be it enacted, etc.:

SEC. 1. The commissioner of public lands is hereby authorized to issue leases for the exploration, development and production of coal, oil, and gas, and other minerals on any State lands upon such terms and conditions as he may deem to be for the best interests of the State and prescribed by the terms of this act. Such leases shall run for a maximum term of ten (10) years, or as long thereafter as mineral in paying quantities shall be produced from the leased lands. The minimum rental for oil and gas leases shall be one hundred dollars (\$100.00) per annum, and the minimum rental for leases for other minerals shall be twenty-five dollars (\$25.00) per annum. On all oil and gas leases the State shall receive a royalty of not less than one-eighth ($\frac{1}{8}$) of the oil and gas produced and saved from the leased lands, or the cash value thereof, payable monthly. The lessees of said lands for coal-mining purposes shall be required to pay such rental as the commissioner may demand, and in addition thereto a royalty of not less than ten cents (10c) per ton on all coal produced, payable monthly. In all other forms of mineral leases the State shall receive not less than five (5) per cent of the net proceeds derived from the sale of minerals produced on the lands after transportation and treatment charges are deducted.

SEC. 2. The commissioner of public lands shall prescribe the minimum rental to be paid by all lessees of State mineral lands and the minimum rental agreed upon shall be paid whether the lands are operated for minerals or not. Lessees shall be required to submit annual reports showing in detail their operations for the preceding year, and such reports shall be verified by the oath of the lessee or his authorized agent. False and fraudulent statements willfully made in any such report shall subject the person making the same to the penalties prescribed by law for the crime of perjury.

SEC. 3. State lands sold heretofore, or which may be sold hereafter on any deferred payment plan under contract containing a reservation to the State of the minerals therein contained, the full amount of the purchase price not having been paid, or patent not having been issued, may be leased by the State as in this act provided, in the same manner as other State lands:

Provided, That before any lease shall be issued for lands which have been sold, the applicant shall file with the commissioner of public lands a good and sufficient bond or undertaking, to be approved by the commissioner, in favor of the State of New Mexico, for the use and benefit of the purchaser of such lands, his grantees or successors in interest, to secure the payment to such purchaser or his successors for such damage to the live stock, range, water, crops or tangible improvements of the purchaser or his successors in interest as may be determined and fixed in any action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, resulting from the use of and operations on the land by such mineral lessee or his successors in interest:

Provided further, That if any such purchaser shall file with the commissioner a waiver, duly executed by him, of his right to require such bond, the commissioner may issue a mineral lease without requiring the lessee to furnish the bond herein provided.

SEC. 4. Where State lands have been sold heretofore, or may be sold hereafter on any deferred payment plan under contract containing a reservation to the State of the minerals therein contained and before the payment of the total purchase price, such land shall have been leased for mineral purposes as in this act provided; or where before the payment of the full amount of the purchase price shall have been made or patent issued, the land shall be known, classified or reported as mineral lands, or where by reason of proximity to known mineral lands or productive oil or gas wells, the commissioner of public lands shall deem such lands to be of probable mineral character and valuable as such, he shall make proper notation on the records of his office, designating the said lands as mineral lands. The commissioner of public lands is hereby authorized to issue to the purchaser of any such mineral lands or lands so classified as mineral, upon full payment of the purchase price according to the terms of the contract, a limited patent only, which shall contain reservation to the State of New Mexico of all the minerals in the said lands, together with the right to the State or its grantees, to prospect for, mine and remove the same; and such lands shall, notwithstanding the issuance of such patent, be subject to lease under the provisions of this act:

Provided, That no lease for such lands shall be issued and no person shall be authorized to prospect for, mine or remove any minerals until an indemnity bond shall be given or waiver of the same filed, as set forth in section 3 of this act.

SEC. 5. All laws or parts of laws in conflict herewith are hereby repealed, and this act shall be in force from and after its passage and approval.

SEC. 6. That it is necessary for the preservation of the peace, health and safety of the inhabitants of the State of New Mexico that the provisions of this act shall become effective at the earliest possible date, and hereby an emergency is declared to exist and this act shall be enforced and in effect from and after its passage and approval.

PIPE LINES.

EMINENT DOMAIN—RIGHT OF WAY—PROCEDURE.

LAWS 1919, P. 223.

MARCH 17, 1919.

CHAPTER 109.

An ACT to amend sections 3481, 3482, 3483, 3484, 3486, and 3487 of the 1915 Codification of the Laws of New Mexico Relative to Rights of Way.

Be it enacted, etc.:

SEC. 1. That section 3481 of the 1915 codification of the laws of New Mexico be, and the same is hereby, amended so as to read as follows:

SEC. 3481. That any * * * oil-well owner * * * or oil-well owners, * * * oil-well drilling * * * corporation for the purpose of transporting or conveying * * * oil * * * to * * * reduction works of any sort for the reduction, * * * loading for shipment * * * of such * * * oil * * * or for the purpose of transporting or conveying * * * oil * * * to or from any * * * reduction works, shall have a right of way for a * * * pipe line, * * * across the lands of other persons by condemnation and payment of damages.

SEC. 2. That section 3482 of the 1915 codification of the laws of New Mexico, be, and the same is hereby, amended so as to read as follows:

SEC. 3482. In order to acquire said right of way, the applicant or applicants shall give ten days' notice in writing, to be served by a sheriff or constable

to each person owning or having any claim upon the lands to be crossed by the * * * pipe line, * * * that the applicant will file, before the judge of the district court of said county wherein the land lies, an application to condemn a right of way over such person's lands.

SEC. 3. That section 3483 of the 1915 codification of the laws of New Mexico, be, and the same is hereby, amended so as to read as follows:

SEC. 3483. The application shall set out the full name or title of the applicant or applicants and describe the location of the mine or mines, or oil well, mill or mills, he, it or they are operating or intend to operate, and a description as near as possible of the lands to be crossed by said * * * pipe line * * * and said application shall be accompanied by a plat showing the location and position of said mine or mines, or oil well, mill or mills, and the lands over which said * * * pipe line, * * * shall run, and the course and width of the ground necessary to be condemned and the facts showing the necessity for such * * * pipe line. * * * And for the purpose of making and preparing the plat aforesaid, such mine or well owner * * * or well owners, * * * or his, its or their agents, shall have the right to go upon the lands of any other persons and make all necessary surveys, measurements and investigations.

SEC. 4. That section 3484 of the 1915 codification of the laws of New Mexico, be, and the same is hereby, amended so as to read as follows:

SEC. 3484. Upon the presentation of said application to the judge of said court, he shall at once order and make the appointment of three commissioners to assess the damages; the commissioners shall be householders of the county wherein the property is situate, and shall make oath upon their appointment before any official authorized to acknowledge deeds in the State, that each of them is worth the sum of \$2,500.00 over and above all just debts, liabilities and exemptions by law, and said commissioners shall not be of the neighborhood of the mine or mill to be worked or operated.

SEC. 5. That section 3486 of the 1915 codification of the laws of New Mexico, be, and the same is hereby, amended so as to read as follows:

SEC. 3486. The said commissioners shall view the ground and determine the amount of damages due to each owner or claimant or claimants, and assess said damages and report the same in writing to the said judge of said district court; that the said court shall at once examine said report and hear any objections made thereto in writing sustained by evidence to be submitted at such hearing, or by written affidavits; notice of filing said affidavits must be given to the opposite party with copies of the affidavits ten days before the date of filing the same. Whereupon the judge of the court shall, in his discretion, either confirm, modify, or reject the report of said commissioners. If said report of said commissioners be confirmed or modified by the judge, and all costs and damages paid by applicants the judge shall issue an order, attested by the clerk of his court, commanding the sheriff of said county to put the applicant in possession of said right of way as shown in said plat, for executing which, said sheriff shall be allowed \$5.00 and his mileage.

SEC. 6. That section 3487 of the 1915 codification of the laws of New Mexico be, and the same is hereby, amended so as to read as follows:

SEC. 3487. In grading for said * * * pipe line * * * if any ore is found, the applicant shall carefully throw it aside in a separate pile or piles and not mix it with other dirt or debris.

NEW YORK.

CONTENTS.

	Page.
Oil wells.....	183
Plugging—Regulations	183
Pipe line companies.....	184
Incorporation—Eminent domain—Operations—Regulations.....	184
Misconduct of officers.....	189
Offenses by corporations.....	190

OIL WELLS.

PLUGGING—REGULATIONS.

CONSOLIDATED LAWS OF NEW YORK, SUPPLEMENT 1919, P. 236.

308. Plugging abandoned oil wells.

Whenever any well shall have been put down for the purpose of exploring for and producing oil or gas, upon abandoning or ceasing to operate the same, the owner or operator shall, for the purpose of excluding water from the oil or gas-bearing rock, and before drawing the casing, fill up the well with sand or rock sediment to the depth of at least twenty feet above the third sand or oil-bearing rock, in case of an oil well, or any gas-bearing rock, in case of a gas well; and in case of an oil well, drive a round, seasoned wooden plug, at least two feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing, and whether an oil or gas well, immediately after the drawing of the casing, shall drive a round, wooden plug into the well at the point just below where the lower end of the casing shall have rested, which plug shall be at least three feet in length, tapering in form, and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well below the point at which it is to be driven; and after it has been properly driven, shall fill in on top of same with sand or rock sediment to the depth of at least five feet: Provided, however, That this section shall not prevent the use of any such well for the operation known as "flooding," in lieu of plugging, if such flooding be done according to the recognized proper methods, and if the owner or operator of the well shall have filed with the clerk of the town in which the well is situated, when the taking of oil therefrom has ceased, a statement in writing that the well, to be designated with common certainty, is reserved for purposes of flooding, and if such owner or operator shall have begun, in good faith, the flooding of such well within three months after the taking of oil therefrom has ceased. (Amended by L. 1919, ch. 252, in effect April 17, 1919.)

PIPE LINE COMPANIES.

INCORPORATION—EMINENT DOMAIN—OPERATIONS—REGULATIONS.

MISCONDUCT OF OFFICERS.

OFFENSES BY CORPORATIONS.

INCORPORATION—EMINENT DOMAIN—OPERATIONS—REGULATIONS.

CONSOLIDATED LAWS OF NEW YORK, VOL. 8 (2D ED.), 8978, P. 8989.

Laws 1909, ch. 219. "An ACT in relation to transportation corporation excepting railroads, constituting chapter sixty-three of the consolidated laws."
(In effect April 21, 1909.)

CHAPTER LXIII OF THE CONSOLIDATED LAWS.

TRANSPORTATION CORPORATIONS.

LAW.

* * * * *

ARTICLE VI.

PIPE LINE CORPORATIONS.

SEC. 40. Incorporation.

Twelve or more persons may become a corporation for constructing and operating for public use, except in the city of New York, lines of pipe for conveying or transporting therein petroleum, gas, liquids or any products or property, or for maintaining and operating any line of pipe already constructed and owned by any corporation, person or persons, except in such city, for the public use, by making, signing, acknowledging and filing a certificate stating the name of the corporation, the number of years it is to continue, the places from and to which it is to be constructed or maintained and operated, its length as near as may be, the name of each county through or into which it is to be constructed; the amount of its capital stock, which shall not be less than fifteen hundred dollars for every mile of pipe constructed or proposed to be constructed, and the number of shares of which it shall consist; the number of directors not less than seven, and the names and places of residence of the directors for the first year, and the place of residence of each subscriber and the number of shares he agrees to take in such corporation, which must in the aggregate equal ten hundred and fifty dollars for every mile of pipe constructed or proposed to be constructed, and twenty-five per centum of which must be paid in cash. Such certificate shall have indorsed thereon or appended thereto and as a part thereof, an affidavit made by at least three of the directors named therein that at least ten hundred and fifty dollars of stock for every mile of line proposed to be constructed or maintained and operated has been in good faith subscribed, and twenty-five per centum paid in money thereon, and that it is intended in good faith to construct or to maintain and operate the line of pipe mentioned in such certificate, and that such corporation was not projected or formed with the intent or for the purpose of injuring any person or corporation, nor for the purpose of selling or conveying its franchise to any person or corporation, nor for any fraudulent purposes. (Former Transportation Corps. L. (L. 1890, ch. 566), sec. 40; originally revised from L. 1878, ch. 203, secs. 1, 2, 4, 5.)

Sec. 41. Location of line.

Every such corporation shall before commencing the construction of its pipe line in any county, or any proceeding for the condemnation of real property, plainly and distinctly mark and designate the line adopted and located by it by a line of stakes consecutively numbered and equally distant, and not more than twenty rods from each other, so that each line can be definitely known and ascertained in all places, and make a map and survey of the route so located and staked out, and shall indicate thereon plainly the points where such route crosses each parcel of land to which it has not acquired title by agreement and shall cause such map and survey to be certified by the president and engineer, and filed in the office of the clerk of the county into or through which the line so located and mapped passes, and shall give to the owner or occupant, if he is known or can be ascertained, of every parcel of land through which such route passes, the title to which has not been acquired by purchase, written notice of the filing of such map and survey, stating that such route passes over or across such owner's or occupant's lands, and that the route thereof is indicated thereon by such line of stakes. Any occupant or owner of such lands feeling aggrieved by the proposed location may, within fifteen days after the service of such notice give ten days' written notice to the corporation, by service upon the president, engineer, or any director thereof, and to the owner or occupant of any lands to be affected by the alteration to be proposed by him, of the time and place of an application to be made by him to a special term of the supreme court in the judicial district in which the lands are situated for the appointment of commissioners to relocate such line. If upon the hearing the court shall consider that sufficient cause exists therefor, it shall appoint three disinterested persons commissioners to examine the route located and the proposed alteration thereof, and direct the mode of proceeding, who shall report to the court the facts relating thereto and their opinion as to the proposed alteration, and what, if any, alteration should be made in such line, and the court shall thereupon make such order as it shall deem proper in relation to such alteration, and determine the location of such line, and fix and adjust the costs, fees and charges of the commissioners, and the costs and charges of the proceedings, and direct by which party the same shall be paid, and may enforce payment thereof by proceedings as for a contempt of court, for refusal to pay costs directed to be paid by an order of the court, and such order shall be final as to the location of the line upon the lands embraced therein. Such corporation shall not commence the work of constructing or laying its line of pipe, or institute proceedings for the condemnation of real property, in any county, until after the expiration of fifteen days from the service by it of the notice herein required, nor until all applications for a relocation of its line in such county, if any are made, have been finally determined. (Former Transportation Corps. L. (L. 1890, ch. 566), sec. 41; originally revised from L. 1878, ch. 203, sec. 23.)

Sec. 42. Condemnation of real property.

In case such corporation is unable to agree for the purchase of any real estate required for the purposes of its incorporation, and its line of pipe in the county in which such real estate is situated has been finally located, it shall have the right to acquire title thereto by condemnation, but such corporation shall not locate or construct any line of pipe through or under any building, dooryard, lawn, garden or orchard, except by the consent of the owner thereof in writing duly acknowledged, nor through any cemetery or burial ground, nor within one hundred feet of any building, except where such line is authorized by public officers to be laid across or upon any public highway, or where the same is laid across or upon any turnpike or plank road. No pipes shall be laid

for the purpose of carrying petroleum, gas or other products or property through or under any of the streets in the cities of this State, unless such corporation shall first obtain the consent of a majority of the property owners on the streets which may be selected for the laying of pipes, and such pipe line shall be located with all reasonable care and prudence so as to avoid danger from the bursting of the pipes. (Former Transportation Corps. L. (L. 1890, Ch. 566), Sec. 42; originally revised from L. 1878, ch. 203, Secs. 14, 34).

Sec. 43. Railroad, turnpike, plank road and highway crossings.

Whenever any line of pipe of any such corporation shall necessarily cross any railroad, highway, turnpike or plank road, such line of pipe shall be made to cross under such railroad, highway, turnpike or plank road and with the least injury thereto practicable, and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof, or to the public in case of highways, in the manner prescribed in the condemnation law, but no exclusive title or use shall be so acquired as against any railroad, turnpike or plank road corporation, nor against the rights of the people of this state in any public highway, but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad, turnpike or plank road, consistent with the use thereof by such pipe line corporation, nor shall any such corporation take or use any lands, fixtures or erections of any railroad corporation, or have the right to acquire by condemnation the title or use, or right to run along or upon the lands of any such corporation, except for the purpose of directly crossing the same when necessary. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 43; originally revised from L. 1878, ch. 203, Sec. 25.)

Sec. 44. Construction across and along canals, rivers, and creeks.

No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in the manner and upon the terms prescribed by the superintendent of public works, unless constructed upon a fixed bridge across such canal, and with the consent of the person for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway, or street, with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through or along the banks of any of the canals of this state, nor through or under any of its rivers or creeks, unless such pipes shall be encased so as to prevent leakage, in such manner as shall be approved by the superintendent of public works. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 44; originally revised from L. 1878, ch. 203, Sec. 26.)

Sec. 45. Consent of local authorities.

No pipe line shall be constructed across, along or upon any public highway without the consent of the commissioners of highways of the town in which such highway is located, upon such terms as may be agreed upon with such commissioners. If such consent or the consent of the commissioners or municipal authorities required by the preceding section can not be obtained, application may be made to the appellate division of the supreme court of the department in which such highway or bridge is situated for an order permitting the corporation to construct its line across, along or upon such highway, or across or upon such bridge. The application shall be by duly verified petition and notice which shall be served upon the commissioners of highways of the town in which the highway is situated, or the municipal authorities of the village or city where such bridge is located, according to the practice or order of the court, or by an order to show cause, and the court upon the hearing of the application may grant an order permitting the line to be so constructed in such

manner and upon such terms as it may direct. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 45; originally revised from L. 1878, ch. 203, sec. 28.)

Sec. 46. Construction through villages and cities.

No pipe line shall be constructed into or through any incorporated village or city in this state, unless authorized by a resolution prescribing the route, manner of construction and terms upon which granted, adopted at a regular meeting of the board of trustees of the village or the common council of the city by a two-thirds vote of such board or council, but such resolution shall not affect any private right. No pavement shall be removed in any city under the provisions of this article, unless done under the direction of the common council, nor until such corporation shall give a bond in such sum as the common council may require for the replacing of any pavements which shall have been removed. In case any pavement shall have been removed and not properly relaid, the common council may bring suit in any court of record, for the cost of relaying such pavement against any such corporation. No gas-houses shall be erected in any city under the provisions of this article, for supplying gas to the inhabitants, unless consent is first given by the corporate authorities of the city. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 47; originally revised from L. 1878, ch. 203, Sec. 29.)

Sec. 47. Over Indian reservations.

Such corporation may contract with the chiefs of any nation of Indians over whose lands it may be necessary to construct its pipe line for the right to construct such pipe line upon such lands, but no such contract shall vest in the corporation the fee of such lands, nor the right to occupy the same for any purpose other than for the construction, operation and maintenance of such pipe line, nor shall such contract be valid or effectual until the same has been ratified by the county court of the county in which the lands are situated. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 47; originally revised from L. 1878, ch. 203, sec. 27.)

Sec. 48. Over State lands.

The commissioners of the land office shall have power to grant to any pipe line corporation any lands belonging to the people of this state which may be required for the purposes of its incorporation on such terms as may be agreed on by them, or such corporation may acquire title thereto by condemnation, and if any lands owned by any county, city or town be required by such corporation for such purposes, the county, city or town officers having charge of such lands may grant them to such corporation upon such terms and for such compensation as may be agreed upon. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 48; originally revised from L. 1878, ch. 203, Sec. 30.)

Sec. 49. Additional powers.

Every corporation formed under this article shall in addition to the powers conferred by the general and stock corporation laws have power:

1. To cause such examinations and surveys of its proposed line of pipe to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers, agents or servants may enter upon the lands or waters of any person, upon, through or across which such corporation can construct its line of pipe, under the provisions of this article, subject however to liability for all actual damage which shall be done thereto.

2. To take and hold such voluntary grants of real estate and other property, as shall be made to it to aid in the construction, maintenance, operation and accommodation of its pipe line.

3. To lay out its pipe line route not exceeding twelve feet in width, but at the terminations of such line and at all receiving and discharging points and at all places where machinery may properly or must necessarily be set up for

the operation of such pipe line it may take such additional width, and for such length as may be necessary.

4. To take and convey through pipes any property substance or product capable of transportation therein by any force, power or mechanical agency, and to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the purposes of its incorporation.

5. To regulate the time and manner in which property shall be transported over its pipe lines, and the compensation to be paid therefor, but such compensation shall not exceed the sum or be above the rate of twenty-five cents per one hundred miles for the transportation of forty-two gallons of any product transported on lines of one hundred miles in length or over, which shall be reckoned and adjusted upon the quantity or number of gallons delivered by such corporation at the point to which it shall have undertaken to deliver the same. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 49; originally revised from L. 1878, ch. 203, Sec. 33, Subds. 1-6.)

Sec. 50. Use of line to be public; storage; liable as common carriers; rates and charges.

The pipe lines of every such corporation shall be open for transportation to the public use, and all persons desiring to transport products through such pipe line shall have the absolute right upon equal terms to such transportation in the order of application therefor, on complying with the general requirements of such corporation, as to delivery for and payment of such transportation, but no application for such transportation shall be valid beyond or for a greater quantity of products than the applicant shall then own and have ready for delivery for transportation to such corporation, and every such corporation shall provide suitable and necessary receptacles for receiving all such products for transportation, and for storage at the place of delivery until the same can reasonably be moved by the consignee, and shall be liable as common carriers therefor from the time the same is delivered for transportation until a reasonable time after the same has been transported to the place of consignment and ready for delivery to the consignee, which time shall be fixed by general regulations by the corporation, and shall not be less than two days from and after the same shall be ready for delivery and notice thereof given to such consignee, and all rates and charges of every description, for or on account of or in any manner connected with the transportation of any products, shall be fixed by such corporation by general rules and regulations, which shall be applicable to all parties who shall transport any products through such pipe line, or deliver or contract to deliver products for transportation and shall be written or printed and exposed to public view and at all times open to public examination. (Former Transportation Corps. L. (L. 1890, ch. 566) Sec. 50; originally revised from L. 1878, ch. 203, Sec. 33, Subd. 7.)

Sec. 51. Receipts for property; cancellation of vouchers; delivery of property.

No receipt, certificate or order of any kind shall be made, accepted or issued by any pipe line corporation for any commodity unless the commodity represented by them is actually in possession of the corporation at the time of making, issuing or acceptance thereof. Whenever any such corporation shall have parted with the possession of any commodity and received therefor any order, voucher, receipt or certificate, such order, voucher, receipt or certificate shall not be issued or used again, but shall be canceled with the word "canceled" stamped or printed legibly across the face thereof, and such canceled order, voucher, receipt or certificate shall be filed and preserved by such corporation and a record of the same kept by the secretary thereof. No petroleum or other commodity received for transportation by such corporation shall be delivered to any person without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same. (Former

Transportation Corps. L. (L. 1890, ch. 566), Sec. 51; originally revised from L. 1878, ch. 203, Sec. 42.)

Sec. 52. Monthly statements.

Every pipe line corporation shall make monthly a specific statement showing the amount of all commodities received, the amount delivered during the month, and the stock on hand on the last day of each month of the year, and how much of such stock is represented by outstanding certificates, vouchers, receipts or orders, and how much in credit balances on the books of the corporation. Such statement shall be made on or before the tenth day of the succeeding month and verified by the oath of the president and secretary that it is in all respects true and correct, and shall be filed within three days thereafter in the county clerk's office in the county where the principal office of the corporation is located, and a true copy of the same posted in a conspicuous place in its principal office for at least thirty days thereafter. (Former Transportation Corps. L. (L. 1890, ch. 566) Sec. 52; originally revised from L. 1878, ch. 203, Sec. 41.)

Sec. 53. Fences; farm crossings and use of line not inclosed.

It shall not be necessary for any such corporation to fence the lands acquired by it for the purposes of its incorporation. But if not inclosed by a substantial fence, the owner of the adjoining lands from whom such lands were obtained, his heirs or assigns, may occupy and use such lands in any manner not injurious to the interests of the corporation and shall not be liable therefor, or for any trespass upon any such lands except for wilful or negligent injuries to the pipes, fixtures, machinery or personal property of the corporation. If the corporation shall keep such lands inclosed it shall construct and provide all suitable and necessary crossings with gates for the use and convenience of any owners of lands adjoining the portion of its lands so inclosed, and no claim shall be made by it against any owner of adjoining lands to make or contribute to the making or maintaining of any division fence between such adjoining lands and its lands, and if it shall neglect to keep and maintain substantial fences along its lands the owners of adjoining lands may construct and maintain all farm or division fences, and all line fences crossed by such pipe line in the same manner as though it had not acquired such lands for such pipe line, and it shall be liable for all injuries to such fences caused or done by any of its officers or agents, or any persons acting in their or its behalf, or by any laborer in its or their employ or in the employ of any of its contractors. (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 53; originally revised from L. 1878, ch. 203, Sec. 35.)

Sec. 54. Taxation of property.

The real estate and personal property belonging to any pipe line corporation in this State, shall be assessed and taxed in the several towns, villages and cities in the same manner as the real estate and personal property of railroad corporations are assessed and taxed, and such corporation may pay such taxes or commute therefor in the same manner as railroad corporations (Former Transportation Corps. L. (L. 1890, ch. 566), Sec. 54; originally revised from L. 1878, ch. 203, Sec. 36.)

MISCONDUCT OF OFFICERS.

CONSOLIDATED LAWS OF NEW YORK, VOL. 5 (2ND ED.), P. 5736.
(BIRDSEYE, CUMMING & GILBERT.)

669. Misconduct of officers and agents of pipe-line corporations.

Any officer, agent or manager of a pipe-line corporation who:

1. Neglects or refuses to transport any product delivered for transportation, or to accept and allow a delivery thereof in the order of application, according to the general rules of the corporation, as provided by law;

2. Charges, accepts or agrees to accept for such receipt, transportation and delivery, a sum different from the amount fixed by such regulations; or,

3. Allows or pays, or agrees to allow or pay, or suffers to be allowed or paid or repaid, any draw-back, rebate or allowance, so that any person shall, by any device, have or procure any transportation or products over such pipe-line at a less rate or charge than is fixed in such regulations,

Is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both.

(Penal Code, Sec. 612, as amended by Laws 1892, Chap. 692, Sec. 1.)

* * * * *

OFFENSES BY CORPORATIONS.

CONSOLIDATED LAWS OF NEW YORK, VOL. 5 (2D ED.), P. 5657.

(BIRDSEYE, CUMMING & GILBERT.)

Sec. 361. Offenses by pipe-line corporations.

A pipe-line corporation, or a person being the officer, agent, manager or representative thereof, who:

1. Accepts, makes or issues any receipt, certificate or order of any kind for any commodity, unless the commodity represented is actually at the time in the possession of the corporation; or,

2. Delivers to any person any petroleum or other commodity received for transportation by such corporation without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same; or,

3. Having parted with the possession of any commodity and having received therefor an order, voucher, receipt or certificate shall reissue the same, or shall not cause it to be canceled by the word "canceled" stamped or printed legibly across the face thereof, and to be filed and recorded by such corporation, as provided by law,

Is guilty of a misdemeanor.

(Penal Code, Sec. 628, as amended by Laws 1892, Chap. 692, Sec. 1.)

* * * * *

Sec. 363. Duplicate receipts must be marked "duplicate."

A person mentioned in sections * * * 361, who issues any second or duplicate receipt or voucher, of a kind specified in those sections, at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. (Penal Code, Sec. 631.)

Sec. 364. Selling, hypothecating, or pledging property received for transportation or storage.

A person mentioned in sections * * * 361 who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him, without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. (Penal Code, Sec. 632.)

NORTH DAKOTA.

CONTENTS.

	Page.
Oil wells-----	191
Liens for labor and materials-----	191

LIENS FOR LABOR AND MATERIALS.

COMPILED LAWS 1913, VOL. 1, P. 1610.

CHAPTER 93.

MINER'S LIEN.

Sec. 6836. Lien for work or material furnished.

Every miner or other person, who at the request of the owner, or his agent, of any lode, lead, ledge, mine or deposit bearing gold, cinnabar or copper, or of any coal bank or mine, or at the request of any contractor or sub-contractor, shall perform any labor whatever on such mine or furnish any timber, rope, nails or any other materials for timbering shafts or levels for the mine owned by such owner, or who shall furnish any kind of materials for erecting any windlass, whims or any other hoisting apparatus or machinery, or for any car track, cars, tunnels, drifts, or openings thereon, or shall perform any labor in any tunnel shall have a lien upon such lode, lead, ledge, mine, deposit, bank or tunnel to secure the payment of the same. (R. C. 1905, Sec. 6256; 1879, Chap. 41, Sec. 1; R. C. 1895, Sec. 4805.)

Sec. 6837. Attested account to owner. Amount of claim deducted from payment to contractor.

Any miner or other person doing and performing any work or furnishing any material as specified in the last section. under a contract either express or implied between the owner of any mine or his agent and any contractor working on such mine, whether such work shall be performed or materials furnished as miner, laborer or otherwise whose demand for work so performed or materials so furnished has not been paid, may deliver to the owner of such mine or tunnel or to his agent or superintendent, an attested account of the amount in value of the work and labor thus performed or of the materials thus furnished and remaining unpaid, and thereupon such owner or his agent shall retain out of the first subsequent payments to such contractor the amount so due for such work and labor or materials furnished for the benefit of the persons so performing or furnishing the same. (R. C. 1905, Sec. 6257; 1879, Chap. 41, Sec. 2; R. C. 1895, Sec. 4806.)

* * * * *

Sec. 6841. Foreclosure.

Any person holding such lien may foreclose the same in the same manner as a mechanic's lien; but in all actions instituted for the foreclosure of such

lien, all persons claiming liens upon the property charged shall be made parties to such action, and the rights of all parties shall be determined by the court, and such order made in regard thereto as shall preserve and protect the rights of all parties. (R. C. 1905, Sec. 6261; 1879, Chap. 41, Sec. 6; R. C. 1895, Sec. 4810.)

* * * * *

Sec. 6843. Chapter applies to oil wells, etc.

The provisions of this chapter shall apply to oil wells, or springs, * * * so far as the same may be applicable. (R. C. 1905, Sec. 6263; 1879, Chap. 41, Sec. 8; R. C. 1899, Sec. 4812.)

OHIO.

CONTENTS.

	Page.
Natural gas	193
Municipalities—Bonds to secure—Election—Regulations and price.....	193
Supply for fuel—Transportation.....	195
Use—Limitations and regulations—Waste.....	196
Oil and gas wells.....	196
Corporations—Authority to do business.....	196
Drilling regulations.....	197
Leases for drilling—Recording.....	199
Maps—Location of wells—Regulations—Plugging.....	199
Permission to drill.....	202
Township—Tax for drilling.....	203
Oil and gas properties.....	203
Liens for labor and materials.....	203
State lands.....	204
Leasing for oil and gas.....	204
Pipe-line companies.....	207
Common carriers—Rights of way—Transportation and storage.....	207
Terms defined.....	208
Public utilities	208
Gross receipts—Report—Excise tax.....	208
Report of property and valuation.....	209

NATURAL GAS.

MUNICIPALITIES—BONDS TO SECURE—ELECTION—REGULATIONS AND PRICE.

SUPPLY FOR FUEL—TRANSPORTATION.

USE—LIMITATIONS AND REGULATIONS—WASTE.

MUNICIPALITIES—BONDS TO SECURE—ELECTION—REGULATIONS AND PRICE.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 2, PP. 383, 409, 417.

Sec. 3933. The council of a municipal corporation may issue and sell bonds in the manner provided by law, at a rate of interest not to exceed six per cent when such council by an affirmative vote of not less than two-thirds of the members elected or appointed thereto by resolution or ordinance, deems it necessary for the purpose of extending, enlarging, improving, repairing or securing a more complete enjoyment of any natural gas works owned by such corporation. (Laws 1905, (Vol. 95), p. 478, Sec. 1.)

Sec. 3934. Before such bonds are issued, the question of issuing them shall be submitted to the voters of the municipal corporation at a general or special election. * * * (Laws 1907, (Vol. 97), p. 237, Sec. 2.)

* * * * *

Sec. 3938. If two-thirds of the voters voting at such election upon the question of issuing the bonds, vote in favor thereof, then, and not otherwise,

the bonds shall be issued, and a tax may be levied for the purpose of paying the interest and principal upon such bonds. * * * (Laws 1907, (Vol. 97), p. 237, Sec. 2.)

* * * * *

Sec. 3982. The council of a municipality in which * * * natural * * * gas companies, * * * are established, or into which their * * * pipes are conducted, may regulate from time to time the price which such companies may charge for * * * gas for lighting or fuel purposes * * * furnished by such companies to the citizens. * * * Such companies shall in no event charge more for * * * natural * * * gas * * * furnished to such individuals * * * than the price specified by ordinance of council. The council may regulate and fix the price which such companies shall charge for the rent of their meters, and such ordinance may provide that such price shall include the use of meters to be furnished by such companies, and in such case meters shall be furnished and kept in repair by such companies and no separate charge shall be made, either directly or indirectly, for the use or repair of them. (R. S. Sec. 2478; Laws 1908, (Vol. 108), p. 170.)

Sec. 3983. If council fixes the price at which it shall require a company to furnish * * * natural * * * gas to the citizens, or public buildings or for the purpose of lighting the streets, alleys, avenues, wharves, landing places, public grounds, or other places or for other purposes for a period not exceeding ten years, and the company or person so to furnish such * * * gas assents thereto, by written acceptance, filed in the office of the auditor or clerk of the corporation, the council shall not require such company to furnish * * * natural * * * gas, as the case may be, at a less price during the period of time agreed on, not exceeding such ten years. (R. S. Sec. 2479; Laws 1907, (Vol. 97), p. 263.)

Sec. 3984. If at any time any such company required by the council to lay pipes and light a street, alley, avenue, wharf, landing place, public ground or building, refuses or neglects for six months after being notified by authority of the council to comply with such requirement, the council may lay pipes and erect gas works for lighting such streets, alleys, or public grounds, and all other streets, alleys, and public grounds not already lighted, and such company shall thereafter be precluded from using or occupying any of the streets, alleys, public grounds or buildings not already furnished with gas pipes of such company and council may open any street for the purpose of so conveying gas. (R. S. 2480; Laws 1876, (Vol. 66), p. 218.)

* * * * *

Sec. 3991. When a municipal corporation is the owner of a natural gas plant by which the citizens thereof are supplied with natural gas, and such natural gas is so supplied through pipes from a point beyond the limits of such corporation which pipes pass through the limits of an incorporated village, the municipality may sell natural gas to such village, or to a company, for the use of such village and the citizens thereof, such gas to be delivered at a reducing station to be located within one hundred feet of the main pipe line. (Laws 1897, (Vol. 87), p. 249, Sec. 1.)

Sec. 3992. When a municipal corporation is the owner of natural gas plant to supply the citizens thereof with natural gas for fuel, the council of such municipal corporation may provide for supplying natural gas at rates to be determined by it, to persons living outside of and in the vicinity of such municipal corporation, and to county infirmaries, children's homes and other public

institutions within or without such municipal corporation. * * * (Laws 1897, (Vol. 87), p. 249, Sec. 2.)

Sec. 3993. Council may prescribe, by ordinance, for the laying down of gas pipes in highways about to be paved, macadamized, or otherwise permanently improved, and for the assessment of the cost and expense thereof upon the lots or parcels of land adjoining or abutting upon the highways in which they are laid. In no case, excepting as a sanitary measure, shall the council require house connections to be built further from the main pipe than the outer line of the curb-stone. (R. S. Sec. 2490; Laws 1876, (Vol. 66), p. 220.)

* * * * *
 Sec. 3995. * * * For transporting natural gas, petroleum, * * * through tubing, pipes or conduits * * * or for storing, transporting or transmitting * * * natural gas or petroleum, * * * a municipal corporation may enter upon any private land to examine or survey a line or lines for such tubing, pipes, conduits, * * * and may appropriate so much thereof as is deemed necessary for the laying down or building of such tubing, conduits, pipes. * * * (R. S. Sec. 3878; Laws 1879, (Vol. 69), p. 194, sec. 3; Laws 1907, (Vol. 97), p. 300.)

* * * * *
 Sec. 3999. Such municipal corporation may transport, store, insure and ship natural gas, petroleum or water, and transport and store water for the purpose of furnishing it to engineers employed in developing for, or in the production and transportation of petroleum, and for that purpose lay down, construct and maintain the necessary pipes, tubing, tanks, machinery and arrangements. (R. S. Sec. 3880; Laws 1882, (Vol. 72), p. 151, Sec. 2.)

Sec. 4000. A municipality authorized and empowered by law to purchase or lease lands, purchase, lease or sink natural gas wells, procure rights of way, purchase and lay down pipes for the purpose of supplying such municipality or the citizens thereof with natural gas may exercise outside of its corporate limits any or all such powers and in addition thereto shall have all the rights and powers conferred upon municipalities by the preceding five sections, subject to all the restrictions therein. (Laws 1896, (Vol. 86), p. 203, Sec. 1.)

SUPPLY FOR FUEL—TRANSPORTATION.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 6, P. 1083.

AN ACT to authorize towns and villages to exchange lands donated for school purposes for other lands to be used for the same purpose. (Laws 1880, Vol. 70, p. 193.)

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 Sec. 14776 (3561a Bates). The provisions of this chapter, so far as the same may be applicable, shall apply also to any company organized for the purpose of supplying the public and private buildings and manufacturing establishments of all cities of the third grade of the second class, having a population not exceeding 16,000 at (the) federal census of A. D. 1880, with natural gas for fuel; but said company shall be liable for any damage that may result from the transportation of the same, provided the township trustees shall not assent to the laying down of any line of pipes in any township of this State, as provided in sections 3550 and 3551 until the company or corporation proposing to lay the same shall obtain the assent, in writing of a majority of the land-owners whose lands may be adjacent to the road or highway upon which said line of pipes or conductors are to be laid. (1885, May 1; Vol. 82, p. 213.)

USE—LIMITATIONS AND REGULATIONS—WASTE.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 3, P. 407.

Sec. 6317. A person, co-partnership or corporation shall not use natural gas for illuminating purposes on flambeau lights; but "jumbo" burners or other burners consuming no more gas than such "jumbo" burners may be so used. A person, co-partnership or corporation consuming natural gas with such burners in the open air or in or around derricks, shall turn it off not later than eight o'clock in the morning of each day such lights or burners are used, and shall not turn on or relight it between the hours of eight o'clock a. m. and five o'clock p. m. (Laws 1902 (Vol. 92), p. 78, Sec. 4.)

Sec. 6318. The next preceding section shall not prohibit the burning of flambeau lights within the derrick of a drilling well or for lighting the streets of cities and villages. (Laws 1902 (Vol. 92), p. 78, Sec. 4.)

NOTE: Sections 6311 to 6316 inclusive and Sections 6319 and 6319-1 are under the subject Oil and Gas Wells—Plugging, page 197.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 6, P. 89.

Sec. 12512. Whoever, not the agent or employe for that purpose of the owner, manufacturer or operator thereof, maliciously opens, closes, adjusts or interferes with a valve, regulator, gauge, gate, disc, curb-cock, meter or other regulating, operating or measuring device or appliance in or attached to the wells, tanks, conduits, pipe-lines, mains, service-pipes, house-pipes, display-pipes or other pipes of a gas company, manufacturer or furnisher of gas with intent to cause the escape of gas or to injure or destroy such property, or maliciously enlarges or alters a mixer furnished or approved by a gas company, manufacturer or furnisher of gas to or for a consumer of gas, or maliciously removes from its connection a mixer so furnished or approved, or, without express permission first obtained, consumes for fuel the gas of a gas company, manufacturer or furnisher of gas without the use of a mixer so furnished or approved by such gas company, manufacturer or furnisher of gas, or taps, severs or opens a main or pipe used or intended for the transmission of gas, or connects with such main or pipe any other main or pipe, shall be fined not less than twenty-five dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both. (Laws 1898 (Vol. 88), p. 241, Sec. 1.)

Sec. 12513. The word "gas," as used in the next preceding section, includes natural and artificial gas used for heating and illuminating purposes. (Laws 1898 (Vol. 88), p. 241, Sec. 1.)

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OIL AND GAS WELLS.**CORPORATIONS—AUTHORITY TO DO BUSINESS.****DRILLING REGULATIONS.****LEASES FOR DRILLING—RECORDING.****MAPS—LOCATION OF WELLS—REGULATIONS—PLUGGING.****PERMISSION TO DRILL.****TOWNSHIP—TAX FOR DRILLING.****CORPORATIONS—AUTHORITY TO DO BUSINESS.**

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 4, P. 1005.

Sec. 10137. Any company incorporated under the laws of this state, for the purpose of mining or boring for petroleum or rock oil, or coal oil, salt or other vegetable, medicinal or mineral fluid, in the earth, or for refining or purifying

them. * * * may, in its corporate name, carry on its business, or so much thereof as is convenient, in any county in this state, or beyond the limits of this state, and there hold any real or personal estate necessary or convenient for conducting it. (R. S. Sec. 3862; Laws 1872 (Vol. 62), p. 143, Sec. 1.)

* * * * *

DRILLING REGULATIONS.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 3, P. 404.

Sec. 6311. An owner of land when he drills a well for the production of petroleum oil, natural gas or mineral water on his own land and the owner of any land and any contractor for such drilling where a well is drilled by contract with the owner of the land, or a lessee, owner of any land, by virtue of a lease, when such lessee drills any such well on land held by him under lease, and any contractor for such drilling where the well is drilled by contract with the lessee of land, or any other person drilling any such well, whether such owner, lessee, contractor or other person be a person, co-partnership or corporation, before drilling into the oil or gas bearing sand or rock or after drilling through the oil or gas bearing sand or rock shall incase such well with good and sufficient wrought iron or steel casing so as to exclude all surface water and fresh or salt water, from any part of such well, penetrating the oil or gas bearing sand or rock. (Laws 1911 (Vol. 101), p. 337.)

Sec. 6312. The owner or operator of any such well of a depth of more than eighteen hundred (1,800) feet, who intends to abandon or cease operating it, shall, before drawing the casing therefrom, securely fill such well with rock sediment to the top of the oil or gas bearing sand or rock, and shall then cause a wooden plug to be placed upon such rock sediment and securely driven with a stem, having a rig or machine moved in for the purpose; and shall carefully measure, for the purpose of making certain that such wooden plug is properly placed at the point above designated, and shall then, if the casing will permit, fill in upon said wooden plug with two hundred (200) feet of rock sediment; or up to the bottom of said casing.

After the casing has been drawn from such well, a wooden plug or iron ball of sufficient size shall be placed in such a manner as to rest upon the shoulder made by the casing, and at least fifty (50) feet of rock sediment shall be placed upon such wooden plug or iron ball.

Wells of less depth than eighteen hundred (1,800) feet shall be filled to a point 200 feet above the oil or gas bearing sand or rock, with rock sediment or with mortar composed of two parts of sand and one part of cement, the same to be thoroughly tamped so as to fill the well, and upon which a wooden plug shall be driven that will completely fill the hole. After the casing has been drawn from such well a wooden plug or iron ball of sufficient size to fill the hole shall be placed in such manner as to rest upon the shoulder made by the casing, and at least fifty (50) feet of rock sediment placed upon said wooden plug or iron ball.

No owner or operator of any oil well or wells shall permit said well or wells to stand for a period of more than three months or to remain without diligently pumping or flowing the same for a period of more than three months. Should any such owner, operator or lessee of any such well or wells allow the same to so remain for such period without diligently prosecuting the work of operating the same, which neglect might be injurious to the adjacent land and well owner by flooding the oil and gas bearing sand with fresh or salt water from leaks in the casing in such well, and on notice to such owner or operator of

such well or wells to operate or prevent such leaks in such casing and prevent the oil or gas bearing rock from being flooded from said well or wells, any owner or lessee of any adjoining land or adjacent land, shall have the right to proceed against said party or parties for the penalty of one thousand dollars as provided in said section 6319 of this chapter, and in the mode and manner therein provided, and there shall be no homestead or other exemptions allowed against the recovery thereof. (Laws 1911, (Vol. 101), p. 337.)

Sec. 6313. If such lessee, or any contractor under him, or other person operating such well fails to comply or inefficiently complies with the next preceding section, the owner of the land upon which such well is situated, may comply therewith. If all the persons whose duty it is to plug and fill such well fail to so fill or inefficiently so fill such well, the owner of such land or any person, the owner of adjoining land or lands adjacent to the lands on which any such well is located, or the lessee of any such lands under a lease for oil or gas, after written demand therefor to any of such persons, may enter and take possession of such well and fully comply with such section. Any court of competent jurisdiction of the county where such well is situated, upon the application of the owner or lessee of such land or the owner or lessee of lands adjoining or adjacent to the lands on which such well is located, may enjoin the removal of the derricks, boilers, fixtures, machinery and equipment used for the drilling or operation of such well when it is made to appear to the court that the owner or person having the same in charge is about to or will remove the same before plugging and filling such well as provided in the next preceding section. The plaintiff shall not be required to give an injunction bond in any such proceeding. (Laws 1911, (Vol. 101), p. 337.)

Sec. 6314. The reasonable cost and expense of so filling such well shall forthwith be paid by the owner of such land, if such owner is the owner of the well or by the contractor or operator drilling or operating such well for or under such owner, and all such persons shall be jointly and severally liable therefor; if such well is drilled by a lessee or owner by virtue of a lease or by an operator or contractor under such lessee, such cost and expense shall forthwith be paid by such lessee or the operator or contractor drilling or operating such well for or under such lessee, and all such parties shall be jointly and severally liable therefor. The amount of such cost and expense shall be a lien upon the fixtures, machinery and appliances used in drilling or operating such well and leasehold or other interest of the lessee, contractor and operator and upon the interest of the land owner in the land upon which the well is situated, if such well owner is the owner of such well, and may be recovered and enforced against the owner, lessee, contractor or operator and such land owner in the order named. No such interest or property shall be exempt from execution under any law of this state or be held or claimed as a homestead or other exemption as against such lien. The court of common pleas of the county in which such well is situated shall have full jurisdiction to try and determine the amount of such claim and enforce the lien thereof upon the property aforesaid and service of summons may be made upon any and all parties liable as aforesaid in any county or counties of this state in which they may be found or located; and it shall not be necessary for the party bringing such suit or action to allege in the petition or prove on the trial that any of the water from such well, either surface, fresh or salt water penetrated the oil or gas bearing sand or rock under the land or lands, or oil or gas lease or leases on the land or lands of which the plaintiff may be the owner or lessee. (Laws 1911, (Vol. 101), p. 337.)

Sec. 6315. A person, co-partnership or corporation, in possession as owner, lessee, agent or manager of a well producing natural gas, in order to prevent

the gas wasting by escape, shall shut in and confine the gas therein, within ten days after penetrating the gas-bearing rock, until such time as it is utilized for light, fuel or power purposes. (Laws 1900, (Vol. 90), p. 25, Sec. 3.)

Sec. 6316. The provisions of the next preceding section shall not apply to an oil well. (Laws 1900 (Vol. 90), p. 25, Sec. 3.)

NOTE: Sections 6317 and 6318 are under the subject, Natural Gas, page 196.

Sec. 6319. Any person, co-partnership, or corporation violating any provisions of section 6312 shall be liable to a penalty of one thousand dollars to be recovered, with costs of suit, in a civil action in any court of competent jurisdiction in the county in which the act shall have been committed or omitted.

* * * (Laws 1911, (Vol. 101), p. 337.)

Sec. 6319-1. When any person, co-partnership, or corporation, required by the provisions of this chapter to plug and fill a well, are about to abandon any such well, such person, co-partnership or corporation, prior to abandoning such well, and before commencing to plug and fill it, shall notify the owner or owners of adjoining land and well owners, in sufficient time for them to attend, of their intention to abandon the well or wells and of the time when they will be prepared to commence plugging and filling the same. (Laws 1911, (Vol. 101), p. 337.)

LEASES FOR DRILLING—RECORDING.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 4, P. 26.

Sec. 8518. All leases and licenses and assignments thereof, or of any interest therein, given or made, for, upon, or concerning lands or tenements in this state, whereby any right is given or granted to operate, or to sink or drill wells thereon for natural gas and petroleum or either, or pertaining thereto, shall be filed for record forthwith, and recorded in such lease record, without delay and not be removed until recorded. (R. S. Sec. 4112a; Laws 1885, (Vol. 75), p. 179.)

MAPS—LOCATION AND NUMBER OF WELLS—REGULATIONS—PLUGGING.

LAWS 1917 (VOL. 107), P. 630.

MARCH 31, 1917.

AN ACT to amend sections 973, 914 and 976 of the General Code, relative to the location of oil and gas wells, the abandonment of such wells, the inspection of the same and the interpretation of "coal bearing and coal producing township."

Be it enacted, etc.:

Sec. 1. That sections 973, 914 and 976 of the General Code be amended to read as follows:

Sec 973. Any person, firm or corporation holding property in any coal bearing or coal producing township, in any county of the state of Ohio, either in fee, by virtue of a lease for oil or gas, mining purposes since January first, 1900, or otherwise, whereon wells have been drilled for oil, gas or test purposes, shall cause to be made by a competent engineer, an accurate map on a scale of not less than one inch to four hundred feet, showing on said map the location and number of wells as near as same can be located, that have been drilled, whether or not any of such wells have been previously abandoned, or were drilled and

abandoned by former operators, who have ever held the said property for oil, gas or mining purposes.

Said map shall show the name and address of the person, firm or corporation owning said well or wells, the county and township, the names of the adjoining property owners, and lines of the property operated with the distances of the wells properly measured therefrom and checked from the section and quarter section lines, as will be necessary for an accurate survey. The map shall show all the engineer's notations of angles, distances, starting points, or corner stones, together with the numbers given the respective wells, giving a legend as to the manner in which various abandoned or producing wells, are designated. The original map shall be retained by the owner or his agent, and one copy filed with the industrial commission of Ohio, division of mines, said copy showing thereon the sworn statement of the engineer making the map, that same is correct.

No oil well, gas well or test well shall be drilled nearer than three hundred feet to any opening to a mine used as a means of ingress or egress for persons employed therein, nor nearer than one hundred feet to any building or inflammable structure connected therewith, and actually used as a part of the operating equipment of said mine.

Any person, firm or corporation before drilling or causing to be drilled any oil well, gas well or test well within the limits of any coal producing township in any county of the state of Ohio, shall first file an application with the industrial commission of Ohio, division of mines, on blanks to be furnished by said commission for such purposes, and shall show the following: The name and address of the applicant, the proper date, location of the proposed well—giving the name of the property owner, section number, township and county, the number of the proposed well, and signed by an officer or agent of such operator. No well shall be commenced until the applicant or operator has been granted a permit, which shall be granted by the industrial commission of Ohio, division of mines, under the following conditions:

If such proposed well is located within the limits directly adjacent to mining operations, such limits to be determined by the industrial commission of Ohio, division of mines, the application for permit must be accompanied by a map showing the location of the proposed well and answering the requirements in the preceding regulations for mapping.

If such proposed well is not located within the limits directly adjacent to mining operations, but within the limits of any coal producing or coal bearing township, the industrial commission of Ohio, division of mines, shall grant a permit immediately upon receipt of the application, providing the applicant is a responsible person, firm or corporation. The industrial commission of Ohio, division of mines, may at any time after the well is commenced, if the responsibility of the applicant or operator is considered doubtful, cause such operator or applicant to show proper guaranty of his intention to fulfill the requirements of this section or cause all operations to cease forthwith. If any person, firm or corporation continues drilling on property already surveyed in accordance with the preceding requirements, a complete blue print or copy of map shall be made at the end of each year ending June 30th, showing the additional wells properly surveyed by a competent engineer as above mentioned, and filed with the industrial commission of Ohio, division of mines, not later than the following first of September.

When any oil well, gas well or test well is to be abandoned, the person, firm or corporation owning such well shall notify the industrial commission of Ohio, division of mines, or the deputy oil and gas well inspector of the district in

which the well is located, as many days in advance as will be necessary for the inspector to arrange to be present at such abandonment. No well shall be abandoned without an inspector being present, unless permission has been first granted upon good cause shown, by the industrial commission of Ohio, division of mines.

When any oil well, gas well or test well is to be abandoned, it must first be plugged in some secure manner above the oil or gas sand or rock formation, either by placing or driving one or more good seasoned wooden plugs, or a lead plug, as the case may require, so that no gas or oil may escape, or any water or destructive matter force itself into the oil or gas sand, or rock formation. Upon such seasoned wooden plug or plugging material shall be filled at least thirty feet of cement properly mixed with sand, or thirty feet of good clay or rock sediment properly prepared.

If any well has passed through a workable vein or seam of coal, it shall when it is abandoned be plugged in the following manner: A seasoned wooden plug shall be driven to a point thirty feet below the lowest workable seam of coal and the hole filled with cement to a point at least twenty feet above this seam of coal, at which point another wooden plug shall be placed and the hole filled for a distance of twenty feet with cement or properly prepared clay, or rock sediment. If there is more than one seam of coal the next seam above must be plugged off in like manner.

In the event that a well being drilled penetrates the excavations of any mine, it must be cased with casing of approximately the same diameter as the diameter of the hole, the hole to be drilled thirty feet or to solid slate or rock and not less than ten feet below the floor of such mine, and the casing shall be placed in the following manner: One string of casing shall be placed at a point above the roof of said mine so as to shut off all of the surface water; then the hole drilled through said mine and another string of casing put in. The bottom of the second string of casing, or the one passing through said mine, shall not be nearer than ten feet, or more than thirty feet from the floor of the mine where it passes through the same.

When any well which has been drilled is to be abandoned and has passed through the excavations of any coal mine from which the minable coal has not all been removed, the person, firm or corporation owning said well shall leave in said well the casing passing through said mine from a point not less than ten feet, nor more than thirty feet below the floor of said mine, and extending above the roof of said mine at least five feet. A seasoned wooden plug shall be driven to a point at least forty feet below the floor of the mine and the hole above said plug together with the casing left in, which extends through the coal, shall be filled with cement; then a seasoned wooden plug shall be driven on the top of said casing, and the hole filled with cement for a distance of not less than twenty feet.

A coal bearing or coal producing township of any county shall be interpreted to mean any township as a unit, in which coal is found that is being mined, or is of such thickness as to make it likely to be mined at some future time. Any well drilled in such township, whether or not it passes through any coal, the same being barren in certain sections of such township, or the well being commenced below the line of outcrop of the coal, will nevertheless be required to be mapped and abandoned in accordance with the regulations and provisions of this section as given above, which shall apply uniformly throughout any coal bearing or coal producing township of any county.

Sec. 914. The chief deputy inspector of mines and the oil and gas well inspector shall designate the townships in the various coal producing counties of Ohio, which shall be considered coal bearing or coal producing townships,

to be included under the regulations as prescribed in section 973 relating to the mapping, drilling and abandonment of oil, gas or test wells. The chief deputy inspector of mines shall allow all matter pertaining to the mapping and drilling of oil and gas wells to be under the direct supervision of the oil and gas well inspector, except when wells are to be drilled, or have been drilled directly adjacent to some mining operations, or in case any arrangement for the drilling of an oil or gas well must necessarily be made in mutual understanding and consideration with some mining operation, or whenever the proper protection of the coal deposits is in question.

The oil and gas well inspector shall supervise the granting of permits to drill or abandon a well, the filing and reprinting of maps of oil, gas or test wells, and see that all the provisions relating to the mapping, drilling, and abandonment of such wells are strictly complied with. In any case where the plugging method as outlined in section 973 can not be applied, or if applied, would be found ineffective in carrying out the intended protection, which the law is meant to give, the oil and gas well inspector may designate the method of plugging to be used, in all such cases causing the abandonment report to show the manner in which the work was done.

The oil and gas well inspector shall designate the counties or townships thereof which shall compose the different districts of the respective deputy oil and gas well inspectors, or change such districts whenever in his judgment the best interests of the service so demands. He shall issue instructions and regulations for the government of the deputy inspectors as will be consistent with the powers and duties vested in them by law, and secure the proper protection which the law intended. The oil and gas well inspector shall give such personal assistance to the deputy inspectors as they may need and make such personal inspection as he deems necessary throughout all the districts, at any time.

Each deputy oil and gas well inspector shall carry out the instructions of the oil and gas well inspector with reference to the enforcement of the regulations provided in section 973, or other regulations that are deemed necessary to insure the protection which this section intends. Any person, firm or corporation dissatisfied with the ruling of the chief deputy inspector of mines, or the oil and gas well inspector under the provisions of this section shall have the right of appeal to the industrial commission of Ohio within ten days from the date of such ruling.

Sec. 976. * * *

Any person, firm or corporation who violates or willfully refuses or neglects to comply with the provisions of section 973, shall, upon conviction thereof, be fined not less than one hundred dollars, nor more than five hundred dollars, and for a second or any subsequent offense shall be fined not less than two hundred dollars and not more than one thousand dollars, or imprisoned not less than thirty days nor more than six months, at the discretion of the court. In addition, if the material is pulled out of a well which was not plugged in accordance with the provisions of section 973, the person, firm or corporation causing such offense may be made to clean out such well and properly plug the same, or pay the entire reasonable cost of such work being done under orders of the industrial commission of Ohio, division of mines, within thirty days. * * *

PERMISSION TO DRILL.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 1, P. 303.

Sec. 914. The chief inspector of mines, upon receiving notice from a person, firm or corporation of the intention to drill an oil or gas well which will likely

penetrate a workable seam of coal, shall make a record thereof, and if such well is to be drilled so as to comply with the provisions of this act relating thereto, he shall give his permission to the parties to proceed. He shall keep on file in his office all the papers and maps pertaining to oil and gas wells, and see that the provisions relating to the drilling, operating and abandonment of such wells are complied with.

Each district inspector of mines shall carry out the instructions of the chief inspector of mines with reference to the enforcement of the regulations provided for in this act relating to the drilling, operating and abandonment of oil and gas wells, and shall see that the regulations relating thereto are complied with in his respective district. (Laws 1911, (Vol. 101), p. 52.)

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TOWNSHIP—TAX FOR DRILLING.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 1, P. 1164.

Sec. 3292. In addition to the tax already authorized by law, the trustees of any township may levy a tax not to exceed five mills on the dollar for the purpose of drilling an oil or gas well in the township, when so authorized by a majority vote of the electors of such township at a regular or special election. Such election shall be conducted the same as elections for township officers, and the tax shall be collected as other taxes. (Laws 1905, (Vol. 95), p. 449, Sec. 1.)

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OIL AND GAS PROPERTIES.

LIENS FOR LABOR AND MATERIALS.

GENERAL STATUTES (SUPPLEMENT) (PAGE & ADAMS), VOL. 2, P. 2180.

Sec. 8310. Sec. 1. Every person who does work or labor upon, or furnishes (furnishes) machinery, material, or fuel, for constructing, altering, or repairing * * * or for digging, drilling, boring, operating, completing, or repairing of any gas well, oil well, or other well, or for altering, repairing or constructing any oil derrick, oil tank, oil or gas pipe line, * * * by virtue of a contract, express or implied, with the owner, part owner, or lessee, of any interest in real estate, or the authorized agent of the owner, part owner, or lessee, of any interest in real estate, and every person who shall as subcontractor, laborer, or material man, perform any labor, or furnish machinery, materials, or fuel, to each original or principal contractor, or any subcontractor in carrying forward, performing, or completing any such contract, shall have a lien to secure the payment thereof upon such * * * gas well, oil well, or other well, or upon such oil derrick, oil tank, oil or gas pipe line, and upon the machinery or material so furnished, and upon the interest, leasehold, or otherwise, of the owner, part owner, or lessee, in the lot or land upon which they may stand, * * * to the extent of the right, title and interest of the owner, part owner, or lessee, at the time the work was commenced or materials were begun to be furnished by the contractor, under the original contract, and also to the extent of any subsequent acquired interest of any such owner, part owner, or lessee. (Laws 1913, (Vol. 103), p. 369, Sec. 1.)

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ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 3, P. 1081.

Sec. 8308. Every person who does work or labor upon or furnishes machinery, material or fuel * * * for digging, drilling, boring, operating, completing or the repairing of any gas well, oil well, or other well, or performs labor in altering, repairing, or constructing any oil derrick, oil tank, oil or gas pipe line, * * * by virtue of a contract, express or implied, with the owner, part owner or lessee, of any interest in real estate or the authorized agent of the owner, part owner, or lessee of any interest in real estate, shall have a lien to secure payment thereof upon such * * * gas well, oil well, or other well, or upon such oil derrick, oil tank, oil or gas pipe line and upon the material or machinery so furnished, and upon the interest, leasehold or otherwise, of the owner, part owner, or lessee in the lot or land upon which they may stand, or to which they may be removed. (R. S. Sec. 3184; Laws 1907, (Vol. 97), p. 499.)

* * * * *

Sec. 8310. Every building erected, or other improvement made, or machinery or material furnished, as mentioned in section eighty-three hundred and eight, on leased lots or lands, shall be held for debt contracted for or on account thereof; also the leasehold term for such lot and land on which they are erected or made. In case the lessee has forfeited his lease, the purchaser of the building and leasehold term, or so much of it as remains unexpired, shall be held to be the assignee of such term, and entitled to pay to the lessor all arrears of rent, or other money, interest, and costs due under the lease, unless the lessor regained possession of the leasehold land, or obtained judgment for its possession because the lessee failed to comply with the terms of the lease. In that case the purchaser of the improvements shall only have the right to remove the improvements within sixty days after he purchased them, and the owner of the ground shall receive the rent due him, payable out of the proceeds of the sale, according to the terms of the lease, down to the time of removing the building. (R. S. Sec. 3184b; Laws 1896, (Vol. 86), p. 373, 374.)

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Sec. 8314. In order to obtain such lien, within four months from the time of completing such labor, or furnishing such machinery, material or fuel, such person must file with the recorder of the county where the labor was performed, or the machinery or the material or fuel furnished, an affidavit containing an itemized statement of the value and amount thereof, and a description of any promissory note or notes given therefor, or any part thereof, with all credits or offsets thereon, a copy of the contract, if it is in writing, a statement of the amount and times of payments to be made thereunder and a description of the land on which the gas well, oil well, or other wells are situated. * * * (Laws 1907, (Vol. 97), p. 499.)

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STATE LANDS.

LEASING FOR OIL AND GAS.

GENERAL STATUTES (SUPPLEMENT) (PAGE & ADAMS), VOL. 1, P. 7.

Sec. 23-1. Sec. 4. All sales and leases of public or other state lands, except canal lands other than reservoirs and lands appurtenant and adjacent to reservoirs, shall exclude all oil, gas, coal or other minerals on or under such lands,

except lands specifically leased for such purposes separate and apart from surface leases, and all deeds for such lands executed and delivered by the state shall expressly reserve to the state all gas, oil, coal or other minerals on or under such lands with the right of entry in and upon said premises for the purpose of selling or leasing the same, or prosecuting, developing or operating the same and this provision shall affect and apply to pending actions. (Laws 1916, (Vol. 106), p. 245, Sec. 4.)

* * * * *

GENERAL STATUTES (SUPPLEMENT) (PAGE & ADAMS), VOL. 1, P. 889.

Sec. 3209-1. The auditor of state is hereby authorized to lease for oil, gas, coal, or other minerals, any unsold portions of section sixteen and section twenty-nine, or other lands granted in lieu thereof, of the original surveyed townships, for the support of schools and religion, to any person, persons, partnership or corporation, upon such terms and for such time as will be for the best interest of the beneficiaries thereof, but nothing herein shall be construed so as to require the auditor to so lease; and the auditor of state in such lease is empowered to grant to such lessee the right to use so much of the surface of such land as may be reasonably necessary to carry on the work of prospecting for, extracting, piping, storing and removing all oil, or gas, or prospecting for and producing coal or other minerals, and for sinking shafts, depositing waste material and maintaining such buildings and constructions as may be reasonably necessary for the mining, handling and removal of such coal or other minerals; provided, however, that such lease shall require the lessee to pay all damage to the holder of the lease holding under a lease from the trustees of the original township.

Should the lessee of the gas, oil, coal, or other minerals, be unable to agree with the lessee holding under lease from the trustees of the original township, upon the damages sustained by the latter by reason of such occupancy of the surface, then the determination of the damages shall be submitted to the arbitrament or umpirage of a commission of three consisting of one person selected by each of the lessees, and one person selected by the attorney general. Such commission shall hear evidence, shall have the powers given to arbitrators under the provisions of chapter 1, division 9, title 4, of the General Code, and shall make an award in writing, signed by a majority of them. Such award shall be filed with the auditor of state and shall be binding upon all parties.

Should the lessee of the oil, gas, coal, or other minerals, fail to pay the damages so awarded, the auditor of state shall file a certified copy of the award in the court of common pleas of the county in which the lands, or the greater part of the lands, may be located, and proceedings thereon may be had as provided for awards of arbitrators by sections 12155, 12156, 12158, of the General Code.

In the event of any productive oil or gas wells having been drilled on any of said lands or coal or other minerals taken therefrom prior to obtaining a lease therefor, said auditor of state is hereby authorized to settle, adjust and compromise with the person, persons, firm or corporation, drilling such wells or removing other minerals upon such terms as may be just and equitable to such persons, and for the best interest of the beneficiaries of said lands. Provided that before any such lease, settlement, adjustment or compromise shall be binding, or in any manner affect existing rights or claims, the same shall be presented to and approved by the governor and attorney general, and providing further, that all moneys arising from any such lease, settlement, adjustment or

compromise shall be paid to the treasurer of state monthly, to be disposed of in the same manner as is provided by law for the proceeds of sale of said section.

And further provided, that if, in such cases, a satisfactory settlement can not be secured, then upon ten days' notice upon the person sought to be dispossessed the auditor of state by and with the consent of the attorney general and governor is authorized to re-enter upon such lands, to hold such oil or gas wells or coal or mineral developments with all the appurtenances thereunto belonging, and to either lease the same under the provisions of this act, or to operate such producing wells, or developments and dispose of the proceeds upon the market, and also to pay the net proceeds arising therefrom into the state treasury to the credit of the irreducible debt of the state, to be held and disbursed as other moneys derived from sales of school and ministerial lands, and he shall also file a detailed statement of all receipts and expenditures covering such operation and sale.

If it should be made to appear to the auditor, attorney general and governor that the occupancy of such lands, so re-entered, and the making of improvements thereon in the development of such gas or oil wells, or coal or other minerals, was in good faith, there shall be submitted all the facts to a board of arbitration, one member of which shall be appointed by the governor, one by the auditor of state and one by the trespasser, and such board of arbitration shall determine what just and equitable settlements shall be made with such trespasser for such improvements and the auditor of state is authorized and directed to make a settlement with such trespasser in accordance with the finding of such arbitration board. (Laws 1915 (Vol. 105), p. 6 (9), sec. 3.)

Sec. 3210. Section sixteen and all lands instead thereof, granted for school purposes, may be sold, and such sales shall be according to the regulations hereinafter prescribed. The proceedings for the sale of such lands for which a deed has been duly executed and delivered by the state to the purchaser thereof at such sale, or his assigns, shall be conclusively presumed to be regular and according to law, but this provision shall not apply to, or affect, pending litigation: Provided, that such sales shall exclude all oil, gas, coal, or other minerals on or under such lands, and all deeds executed and delivered by the state shall expressly reserve to the state all gas, oil, coal, or other minerals, on or under such lands, with the right of entry in and upon said premises for the purpose of selling or leasing the same, or prospecting, developing or operating the same, and this latter provision shall affect and apply to pending actions (Laws 1915, (Vol. 5), p. 6 (8).)

* * * * *

Sec. 3222. On being satisfied of the truth of the facts set forth in such petition, the court shall appoint such appraisers who shall proceed under oath to make a just valuation of the premises in money without reference to the improvements made thereon under and by reason of such lease, or to any gas, oil, coal, or other minerals that may be upon such lands, and shall return such valuation in writing to the court. If satisfied that the valuation is just, the court shall confirm it, and order it, with the petition and other proceedings therein to be recorded. (Laws 1915, (Vol. 5), p. 6 (8).)

* * * * *

PIPE LINE COMPANIES.

COMMON CARRIERS—RIGHTS OF WAY—TRANSPORTATION AND STORAGE.
TERMS DEFINED.

COMMON CARRIERS—RIGHTS OF WAY—TRANSPORTATION AND STORAGE.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 4, P. 1002.

Sec. 10128. Any company or companies organized for * * * transporting natural gas, petroleum * * * through tubing, pipes or conduits, * * * or for storing, transporting or transmitting * * * natural gas or petroleum * * * may enter upon any private land for the purpose of examining or surveying a line or lines for its tubing, pipes, conduits, * * * and may appropriate so much thereof as is deemed necessary for the laying down or building of such tubing, conduits, pipes, * * * and for the erection of tanks and reservoirs, * * * and the erection of such building as may be necessary for the purpose aforesaid. (R. S. Sec. 3878; Laws 1907, (Vol. 97), p. 300.)

Sec. 10129. Such appropriation shall be made in accordance with the law providing for compensation to the owners of private property appropriated to the use of corporations. So far as the rights of the public therein are concerned, the county commissioners as to county and state roads, the township trustees as to township roads, and the councils of municipal corporations as to streets and alleys in their respective jurisdictions, subject to such regulations and restrictions as they prescribe, may grant to such companies, the right to lay such tubing, pipes, conduits, * * * therein. But the right to appropriate for any of the purposes above specified, shall not include or extend to the erection of any tank, station, reservoir, or building, or lands therefor, or to more than one continuous pipe, conduit or tubing or land therefor, in or through a municipal corporation, unless the council first consents thereto. (R. S. Sec. 3878; Laws 1907, (Vol. 97), p. 300.)

* * * * *

Sec. 10132. Such company or companies, for the purpose of transporting natural gas, oils, * * * shall be a common carrier, and subject to all the duties and liabilities of such carriers under the laws of this state. (R. S. Sec. 3878; Laws 1907, (Vol. 97), p. 300.)

Sec. 10133. Such a company may take, by purchase or otherwise, and hold, such real and personal estate, and erect or purchase the necessary buildings and machinery for carrying on the business, including all the necessary equipments and appendages of the business, such as tubing, pumps, tanks, telegraph apparatus, and engines, as may be necessary to transport oil and water through tubes and pipes. (R. S. Sec. 3879; Laws 1875, (Vol. 65), p. 109, Sec. 2.)

Sec. 10134. Such a company may transport, store, insure and ship natural gas, petroleum or water, and transport and store water, for the purpose of furnishing it to engineers employed in developing for, or in the production and transportation of petroleum, and for that purpose it may lay down, construct and maintain the necessary pipes, tubing, tanks, machinery and arrangements. (R. S. Sec. 3880; Laws 1882, (Vol. 72), p. 151, Sec. 2.)

TERMS DEFINED.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 1, P. 198.

Sec. 614-2. Sec. 3. The following words and phrases used in this act, unless the same is inconsistent with the text shall be construed as follows:

The term "commission" when used in this act, or in chapter one, division two, title three, part first of the General Code and the acts amendatory or supplementary thereto means "The Public Service Commission of Ohio."

The term "commissioner" means one of the members of such commission.

Any person or persons, firm or firms, co-partnership or voluntary association, joint stock association, company or corporation, wherever organized or incorporated: * * *

When engaged in the business of transporting natural gas or oil through pipes or tubing, either wholly or partly within this state, is a pipe line company.
* * * (Laws 1912 (Vol. 102), p. 549, Sec. 3.)

PUBLIC UTILITIES.

GROSS RECEIPTS—REPORT—EXCISE TAX.

REPORT OF PROPERTY VALUATION—TAXATION.

GROSS RECEIPTS—REPORT—EXCISE TAX.

ANNOTATED GENERAL STATUTES (PAGE & ADAMS), VOL. 3, P. 88.

Sec. 5475. Sec. 86. On the first Monday of September the commission shall ascertain and determine the entire gross receipts of each * * * natural gas, pipe line * * * company for business done within this state for the year then next preceding the first day of May. * * * (Laws 1912, (Vol. 102), p. 224, Sec. 86.)

Sec. 5476. Sec. 87. The amount so ascertained by the commission, in such instance, for the purposes of this act, shall be the gross receipts of such * * * natural gas, pipe line * * * companies for business done within this state for such year. (Laws 1912, (Vol. 102), p. 224, Sec. 87.)

* * * * *

Sec. 5481. Sec. 92. On the first Monday of October the commission shall certify to the auditor of state, the amount of the gross receipts so determined, of * * * natural gas, pipe line, * * * companies, for the year covered by its annual report to the commission as required in this act. (Laws 1912, (Vol. 102), p. 224, Sec. 92.)

* * * * *

Sec. 5483. Sec. 94. In the month of October, annually, the auditor of state shall charge, for collection from each * * * natural gas * * * company, a sum in the nature of an excise tax, for the privilege of carrying on its intra-state business, to be computed on the amount so fixed and reported by the commission as the gross receipts of such company on its intra-state business for the year covered by its annual report to the commission, as required in this act, by taking one and two-tenths per cent. of all such gross receipts, which tax shall not be less than ten dollars in any case. (Laws 1912, (Vol. 102), p. 224, Sec. 94.)

* * * * *

REPORT OF PROPERTY AND VALUATION—TAXATION.

ANNOTATED GENERAL CODE (PAGE & ADAMS), VOL. 3, P. 60.

PUBLIC UTILITIES.

Sec. 5415. Sec. 39. The term "public utility" as used in this act means and embraces each corporation, company, firm, individual and association, their lessees, trustees, or receivers elected or appointed by any authority whatsoever, and herein referred to as * * * natural gas company, pipe line company * * * and such term "public utility" shall include any plant or property owned or operated, or both, by any such companies, corporations, firms, individuals or associations.

Sec. 5416. Sec. 40. That any person or persons, firm or firms, co-partnership or voluntary association, joint stock association, company or corporation, wherever organized or incorporated: * * *

When engaged in the business of supplying natural gas for lighting, heating or power purposes, to consumers within this state, is a natural gas company;

When engaged in the business of transporting natural gas or oil through pipes or tubing, either wholly or partially within this state, is a pipe line company. * * *

* * * * *

Sec. 5420. Sec. 44. Each public utility, as defined in this act, except express, telegraph and telephone companies, shall annually, on or before the first day of March, make and deliver to the tax commission of Ohio in such form as the commission may prescribe, a statement, with respect to such utility's plant or plants and all property owned or operated, or both, by it wholly or in part within this state. (Laws 1912, (Vol. 102), p. 224, Sec. 44.)

Sec. 5421. Sec. 45. Such statement shall be signed and sworn to under the oath of the person constituting such public utility, if a person or under the oath of the president, secretary, treasurer, superintendent or principal accounting officer or person of such firm, association or corporation, if a firm, association or corporation. (Laws 1912, (Vol. 102), p. 224, Sec. 45.)

Sec. 5422. Sec. 46. Such statement shall contain:

1. The name of the company.
2. The nature of the company, whether a person or persons, firm, association or corporation, and under the laws of what state or country organized.
3. The location of its principal office.
4. The name and postoffice address of the president, secretary, auditor or the principal accounting officer or person, treasurer, and superintendent or general manager.
5. The name and postoffice address of the chief officer or managing agent of the company in this state.
6. The number of shares of the capital stock.
7. The par value and market value, or if there is no market value, the actual value of its shares of stock on the first day of the month of January in which the statement is made; the amount of capital stock subscribed, and the amount thereof, actually paid in.
8. A detailed statement of the real estate owned by the company in this state, where situated, and the value thereof as assessed for taxation, making separate statements of that part used in connection with the daily operations of the company, and that part used otherwise, if any such there be.

9. An inventory of the personal property, including moneys, investments and credits, owned by the company, in this state, on the first day of the month of January in which the statement is made, where situated, and the value thereof, making separate statements of that part used in connection with the daily operations of the company, and that part used otherwise if any such there be.

10. The total value of the real estate owned by the company and situated outside of this state, making separate statements of that part used in connection with the daily operations of the company, and that part used otherwise if any such there be.

11. The total value of the personal property owned by the company and situated outside of this state, making separate statements of that part used in connection with the daily operations of the company, and that part used otherwise if any such there be.

12. The total amount of bonded indebtedness and of indebtedness not bonded; the gross receipts for the preceding calendar year from any and all sources, and the gross expenditures for the preceding calendar year. * * *

14. In case of pipe line, gas, natural gas, * * * companies, such statement shall also show:

(a) The number of miles of pipe line owned, leased or operated within this state, the size or sizes of the pipe composing such line, and the material of which such pipe is made;

(b) If such pipe line be partly within and partly without this state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of this state;

(c) The length, size and true and actual value of such pipe line in each county of this state, including in such valuation the main line, branches and connecting lines, and stating the different value of the pipe separately;

(d) Its pumping stations, machine and repair shops and machinery therein, tanks, storage tanks and all other buildings, structures and appendages connected or used therewith, including telegraph and telephone lines and wires, and the true and actual value of all such stations, shops, tanks, buildings, structures, machinery and appendages and of such telegraph and telephone lines, and the true and actual value thereof in each county in this state in which it is located; and the number and value of all tank cars, tanks, barges, boats and barrels. (Laws 1913, (Vol. 102), p. 224, Sec. 46.)

Sec. 5423. Sec. 47. On the second Monday of June of each year, the commission shall ascertain and assess, at its true value in money, all the property in this state of each such public utility, subject to the provisions of this act, other than express, telegraph and telephone companies. (Laws 1912, (Vol. 102), p. 224, Sec. 47.)

* * * * *

OKLAHOMA.

CONTENTS.

	Page.
Natural gas	211
Conservation—Plugging wells	212
Meter use—Municipalities affected	214
Meter rate	215
Ownership—Larceny	215
Pipe lines—Wells—Regulations	216
Waste prevented—Corporation commission—Powers	221
Oil and gas	224
Leasing river beds and streams	224
Leasing school and public lands	226
Leasing State lands	228
Leasing—Counties and townships	230
Oil	231
Dealers in oil—Regulations—Conditions for operations—Corporation commission	231
Waste prevented — Production — Regulations — Corporation commis- sion	234
Oil and gas wells	236
Drilling—Inspection and supervision	236
Plugging required	237
Record of plugged and abandoned wells	238
Lien for labor and supplies	240
Pipe lines	241
Natural gas—Transportation—Eminent domain	241
Oil—Transportation—Eminent domain	245
Public utilities—Corporation commission	246
Taxation	248
Gross revenue—Oil and gas production—Public-service corporations	248
License tax—Mining companies	252
Schedule—Oil and gas properties—Purchasers of oil and gas	255
Regulations of corporation commission	257
Conservation of natural gas and oil—Rules	257

NATURAL GAS.

CONSERVATION—PLUGGING WELLS.

METER USE—MUNICIPALITIES AFFECTED.

METER RATE.

OWNERSHIP—LARCENY.

PIPE LINES—WELLS—REGULATIONS.

WASTE PREVENTED—CORPORATION COMMISSION—POWERS.

CONSERVATION—PLUGGING WELLS.

LAWS 1909, P. 431.

MARCH 27, 1909.

R. S. 1910, Secs. 4319-4325, 4327-4331.

CHAPTER XXVI.

ARTICLE II.

AN ACT to regulate the use and preservation of oil and gas and providing penalties for the violation thereof, providing for an inspector, his duties, compensation and appropriation therefor and declaring an emergency.

Be it enacted, etc.:

Sec. 1. Any person, co-partnership, or corporation in possession, either as owner, lessee, agent or manager of any well producing natural gas, in this state, in order to prevent the said gas wasting by escape, shall immediately after this act takes effect, and immediately after penetrating the gas-bearing rock in any well hereafter drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for lights, fuel or power purposes: Provided, this shall not apply to any well operated for oil: Provided, also, that when in the course of drilling gas production is developed, four days free time shall be allowed in which to determine whether the well shall be shut and saved for a gas well or drilled in further for the purpose of producing oil.

Sec. 2. It shall be unlawful for any person, co-partnership, or corporation, either as owner, lessee, agent or manager of any pipe line in this state, through which natural gas flows from wells utilized for the production of gas only, to allow any unnecessary leak or waste to occur from said line.

Sec. 3. It shall be unlawful to use natural gas for illuminating purposes in what are known as flambeau lights; but nothing herein shall prohibit the use of "Jumbo" burners or other burners in glass globes consuming no more gas than such "Jumbo" burners, nor the burning of flambeau lights not to exceed four in number within or near the derrick of any drilling well.

Sec. 4. The person, persons, firm, company or corporation consuming said gas, and using burners in open air or in or around derricks shall turn off said gas not later than eight o'clock in the morning of each day any such lights or burners are used, and shall not turn on or relight the same between the hours or eight o'clock a. m. and five o'clock p. m.

Sec. 5. No gas shall be used or burned for illuminating purposes between the hours of eight o'clock a. m. and five o'clock p. m., unless the use of the same is regulated by meter.

Sec. 6. No inflammable product from any oil or gas well shall be permitted to run into any tank, pool or stream used for watering stock; and all waste of oil and refuse from tanks or wells shall be drained into proper receptacles at a safe distance from the tanks, wells or buildings, and be immediately burned or transported from the premises, and in no case shall it be permitted to flow over the land. Salt water shall not be negligently allowed to flow over the surface of the land.

Sec. 7a. All lessees or operators drilling or operating for crude oil or natural gas within the State of Oklahoma shall immediately in a practical and workmanlike manner under the supervision of the oil and gas inspector, as hereinafter provided, plug all dry or abandoned oil and gas wells in which oil or

gas bearing stratum has been found in the following manner: beginning at the bottom of the hole, same shall be solidly filled with crushed rock or sand pumpings or both to a point twenty-five feet above the top level of the oil or gas bearing sand; at that point a wooden plug of seasoned pine two feet in length and not less than one-half inch in diameter less than the inside diameter of the hole at that point shall be placed; thereafter the hole shall be filled up solidly twenty-five feet farther with a substance consisting of one-third portion of cement and two-thirds portion of sand properly mixed with water; thereafter, another wooden plug of seasoned pipe (pine) two feet in length and not less than one-half inch in diameter less than the inside diameter of the hole at that point shall be placed; thereafter the hole shall be filled up solidly twenty-five feet farther with crushed rock and sand pumpings or both: and Provided, further, that all such wells drilled to the Mississippi line shall be plugged above the Mississippi line in the same manner as provided for herein above, as to the plugging of wells in the upper oil and gas bearing stratum, all abandoned wells shall immediately be closed and marked: and Provided further, that when any such lessee or operator removes the derrick from and around such wells, he shall plug such wells in some good and substantial manner, at least ten feet below the surface and fill such well from that point to the surface with such material as will prevent the well from caving before final abandonment.

* * * * *

Sec. 7c. Whenever it becomes necessary to plug any well as required by law, the lessee or operator thereof shall at once notify, in writing, the inspector of gas and oil wells at the office of the chief mine inspector or by personal written notification to the inspector of gas and oil wells at his residence, whereupon said inspector, or his deputy, shall repair to said well and supervise the plugging thereof.

Sec. 7d. Upon the arrival of said inspector, or his deputy, at the well to be plugged, the lessee or operator thereof shall furnish the inspector a record of the drilling of said well verified under oath showing a true and correct log of the well.

Sec. 8. It is hereby declared to be unlawful for any person or persons maliciously to set fire to any gas or oil escaping from wells, broken or leaking mains, pipes, valves, tanks or other appliances, used by any person, company or corporation in conveying gas or oil, or to interfere in any manner with the wells, pipes, mains, gate boxes, valves, stopcocks, or other appliances, machinery or property of any person company or corporation engaged in furnishing gas or oil unless employed by or acting under the authority and direction of any such person, company or corporation owning or operating said gas or oil lines or the proper legal authorities.

Sec. 9. Any person, co-partnership, or corporation violating any of the provisions of this act, shall, upon conviction thereof, be fined in any sum of not less than twenty-five dollars, nor more than five hundred dollars, in any court having competent jurisdiction in the county in which the act shall have been committed or omitted, or by being imprisoned for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. The amount of said penalty, when collected, shall be paid one-half into the public road fund, of the county in which said suit shall have been brought, and one-half to the informer in said action.

NOTE. Sections 10, 11, and 12 are under the title, Pipe Lines—Eminent Domain. See p. 244.

* * * * *

METER USE—MUNICIPALITIES AFFECTED.

LAWS 1913, P. 309.

APRIL 28, 1913.

CHAPTER 152.

AN ACT requiring corporations or persons furnishing natural gas to consumers, in municipalities, where the population exceeds five hundred, to do so through standard meters at the meter rate, and fixing a penalty for violation thereof; and declaring an emergency.

Be it enacted, etc.:

* * * * *

NOTE: The original section 1 is amended as shown by the following Act:

LAWS 1915, P. 333.

APRIL 2, 1915.

CHAPTER 200.

AN ACT amending section 1, chapter 152 Session Laws of 1913, requiring corporations or persons furnishing natural gas to consumers in municipalities where the population exceeds five hundred to do so through standard meters at the meter rate and fixing a penalty for violation thereof.

Be it enacted, etc.:

GAS COMPANIES TO USE METERS—MUNICIPALITIES AFFECTED.

Sec. 1. That section 1 of Chapter 152, Session Laws of 1913, be and the same is hereby amended to read as follows:

"Section 1. That all persons, firms, corporations or other business organizations engaged in the business of furnishing natural gas in municipalities in this state, to the inhabitants thereof, shall do so through standard meters at meter rates; provided, that this Act shall only apply to towns where the population exceeds five hundred, and shall not prohibit the sale of gas at a flat rate to federal, state or municipally owned buildings, institutions or plants; provided further, that this Act shall not abrogate any existing contract, or effect or change the terms or conditions of any franchise granted by any municipal corporation prior to, and in effect April 28th, 1913."

REPEAL.

Sec. 2. That all Acts or parts of Acts in conflict herewith, are hereby repealed.

Approved April 2, 1915.

NOTE: Here follow the remaining sections of the original act.

VIOLATIONS OF ACT—PUNISHMENT.

SEC. 2. Any person, firm, corporation or other business organization who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction, shall be fined not less than five dollars nor more than twenty-five dollars, and each day of such violation shall be deemed a separate offense.

EMERGENCY.

Sec. 3. An emergency is hereby declared, by reason whereof it is necessary for the immediate preservation of the public health and safety that this act take effect and be in force from and after its passage and approval.

METER RATE.

LAWS 1917, P. 194.

MARCH 30, 1917.

CHAPTER 129.

AN ACT prohibiting corporations or persons furnishing gas to consumers, from making and maintaining a fixed minimum charge for gas, or for the use of; or for the inspection of any gas meter used on the premises of any consumer, and providing that the consumer shall be charged only for gas that has been used and registered by the gas meter, abolishing the minimum charge for gas; prohibiting a charge for the use of gas meters or for the inspection of gas meters.

Be it enacted, etc.:

MINIMUM CHARGE PROHIBITED.

Sec. 1. That all persons, firms, corporations, or other business organizations engaged in the business of furnishing gas in this State, to the inhabitants thereof, shall be prohibited from making and maintaining a fixed minimum charge for gas, or for the use of gas meter, or for the inspection of any gas meter used on the premises of any consumer; and providing that the consumer shall be charged only for the number of cubic feet of gas used or consumed as registered by gas meter.

PENALTY.

Sec. 2. Any person, firm, corporation, or other business organization, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, for each and every separate offense.

Approved March 30, 1917.

OWNERSHIP—LARCENY.

LAWS 1913, P. 439.

MAY 16, 1913.

CHAPTER 198.

AN ACT defining ownership of natural gas, providing for the taking of same and making it larceny to take natural gas except as herein provided.

Be it enacted, etc.:

OWNERSHIP DEFINED.

Sec. 1. All natural gas under the surface of any land in this state is hereby declared to be and is the property of the owners, or gas lessees, of the surface under which gas is located in its original state.

RIGHTS OF OWNERS—RESTRICTIONS ON OUTPUT.

Sec. 2. Any owner, or oil and gas lessee, of the surface, having the right to drill for gas shall have the right to sink a well to the natural gas underneath the same and to take gas therefrom until the gas under such surface is exhausted. In case other parties, having the right to drill into the common reservoir of gas, drill a well or wells into the same, then the amount of gas each owner may take therefrom shall be proportionate to the natural flow of his well or wells to the natural flow of the well or wells of such other owners of the same common source of supply of gas, such natural flow to be determined by any standard measurement at the beginning of each calendar month; pro-

vided, that not more than twenty-five per cent of the natural flow of any well shall be taken, unless for good cause shown, and upon notice and hearing the Corporation Commission may, by proper order, permit the taking of a greater amount. The drilling of a gas well or wells by any owner or lessee of the surface shall be regarded as reducing to possession his share of such gas as is shown by his well.

PURCHASERS OF OUTPUT—PRICES AND AMOUNTS OF GAS TO BE TAKEN.

Sec. 3. Any person, firm or corporation, taking gas from a gas field, except for purposes of developing a gas or oil field, and operating oil wells, and for the purpose of his own domestic use, shall take ratably from each owner of the gas in proportion to his interest in said gas, upon such terms as may be agreed upon between said owners and the party taking such, or in case they can not agree at such a price and upon such terms as may be fixed by the Corporation Commission after notice and hearing; provided, that each owner shall be required to deliver his gas to a common point of delivery on or adjacent to the surface overlying such gas.

TAKING MORE THAN SHARE OF GAS—DAMAGES AND PENALTIES.

Sec. 4. Any person, firm or corporation, taking more than his or its proportionate share of such gas, in violation of the provisions of this act, shall be liable to any adjoining well owner for all damages sustained thereby and subject to a penalty for each violation not to exceed five hundred dollars (\$500.00), and each day such violation is continued shall be a separate offense.

VIOLATIONS OF ACT—PUNISHMENT.

Sec. 5. Any person or agent of a corporation, who takes gas, or aids or abets in the taking of gas, except as herein provided, either directly or indirectly, as an individual, officer, agent, or employee of any corporation, shall be guilty of grand larceny, and, upon conviction thereof, shall be sentenced to the penitentiary not to exceed five (5) years.

Approved May 16, 1913.

PIPE LINES—WELLS—REGULATIONS.

LAWS 1913, P. 166.

MARCH 26, 1913.

CHAPTER 99.

AN ACT to regulate corporations, associations, and persons engaged in this state, in the business of carrying natural gas through pipe lines; to regulate operators of gas wells, regulating the purchase of natural gas by pipe lines, providing punishment for violations thereof, conferring jurisdiction in the Corporation Commission for enforcement of the provisions of this act, and declaring an emergency.

Be it enacted, etc.:

BUSINESSES AND PERSONS SUBJECT TO THE ACT—VESTED RIGHTS EXCEPTED.

Sec. 1. Every corporation, joint-stock company, limited copartnership, partnership or other person, now, or hereafter exercising or claiming the right to carry or transport natural gas by or through pipe line or lines, for hire, compensation or otherwise, or now or hereafter exercising or claiming the right to

engage in the business of producing, piping or transporting natural gas, or any other person or persons, now or hereafter engaging in the business of buying, selling in or transporting natural gas within the limits of this state, shall not have or possess the right to conduct or engage in said business or operations, in whole or in part, as above described, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures and equipment thereto belonging, or use in connection therewith, concerning the said business of carrying or transporting natural gas as aforesaid, on, over, along, across, through, in or under any present or future highway, or part thereof, within the state, or to have or possess the right of eminent domain, or any other right or rights, concerning said business or operation, in whole or in part, except as authorized by and subject to the provisions of this act, except, further, and only such right or rights as may already exist which are valid, vested, and incapable of revocation by any law of this state or of the United States.

PIPE LINE RIGHT OF WAY—EMINENT DOMAIN—HIGHWAYS.

Sec. 2. For the purpose of acquiring necessary right-of-way, every such person is hereby granted the right of condemnation by eminent domain, and in the use of the highways in this state, for the purpose of transporting natural gas by pipe lines, and the location, laying, constructing, maintaining and operations thereof.

PIPE LINE OPERATORS COMMON PURCHASERS—REQUIREMENTS—EXEMPTIONS.

Sec. 3. Every corporation, joint-stock company, limited copartnership, partnership or other person, now or hereafter claiming or exercising the right to carry or transport natural gas by pipe line or pipe lines, for hire, compensation, or otherwise, within the limits of this state, is allowed by, and upon compliance with the requirements of this act, as owner, lessee, licensee, or by virtue of any other right or claim, which is now engaged or hereafter shall engage in the business of purchasing natural gas shall be a common purchaser thereof, and shall purchase all the natural gas in the vicinity of, or which may be reasonably reached by its pipe lines, or gathering branches, without discrimination in favor of one producer or one person as against another, and shall fully perform all the duties of a common purchaser; but if it shall be unable to perform the same, or be legally excused from purchasing and transporting all the natural gas produced or offered, then it shall purchase and transport natural gas from each person or producer ratably, in proportion to the average production, and such common purchasers are hereby expressly prohibited from discriminating in price or amount for like grades of natural gas or facilities as between producers or persons; and in the event it is likewise a producer, it is hereby prohibited from discrimination in favor of its own production, or production in which it may be interested directly or indirectly in whole or in part, and its own production shall be treated as that of any other person or producer. All persons, firms, associations, and corporation are exempted from the provisions of this act, except from the provisions of section (9) nine hereof, where the nature and extent of their business is such that the public needs no use in the same, and the conduct of the same is not a matter of public consequence, and for this purpose the district courts of the state and the Corporation Commission are hereby vested with jurisdiction to determine such exemptions in any action or proceeding properly before them, and provided by the laws now in force in this state regulating the purchase and transportation of oil.

NOTE: The original Section 4 was amended as shown by the following Act:

LAWS 1919, P. 174.

APRIL 2, 1919.

AN ACT amending Section 4, of Chapter 99, of the Session Laws 1913.

Be it enacted, etc.:

PIPE LINES COMPANIES DECLARED CARRIERS—DISCRIMINATION—EXEMPTIONS.

Sec. 1. That Section 4, of Chapter 99, of the Session Laws of 1913, be amended to read as follows:

Sec. 4. Every corporation, joint stock company, limited co-partnership, partnership, or other person, now or hereafter engaged in the business of carrying or transporting natural gas for hire, for compensation or otherwise, by pipe line, or pipe lines within this State, and by virtue of and in conformity to, any valid law incapable of revocation by any law of this State or of the United States, or by virtue of and in conformity of the provisions of this act, shall be a common carrier thereof as at common law, and no such common carriers shall allow or be guilty of any unjust or any unlawful discrimination, directly or indirectly, in favor of the carriage, transportation or delivery of any natural gas, offered to it, in its possession or control, or in which it may be interested, directly or indirectly, and, provided further, that any person, firm, or corporation owning or operating a gas pipe line within the limits of any incorporated city or town in this State shall be exempted from the provisions of this section only as to its distributing lines located wholly within the corporate limits of said city or town.

Approved April 2, 1919.

NOTE: Here follow remaining sections of original act.

NON-COMPLIANCE WITH ACT MADE UNLAWFUL—EFFECT.

Sec. 5. It shall be unlawful for any corporation, joint stock company, limited copartnership, partnership or other person, now or hereafter engaged in the business of carrying or transporting natural gas for hire or compensation or otherwise, within the limits of this act and not becoming a common purchaser as defined by, and accepting the provisions of this act, to own or operate, directly or indirectly any gas well or wells, gas leases, or gas holdings or interests in this state, after six months next after the approval of this act, and each and every of said corporations, joint stock company, limited copartnership, partnership or other persons shall divest themselves of all legal or equitable ownership, interest or control, directly or indirectly, in gas well or wells, gas leases or gas holdings or interest in this state.

PREREQUISITE TO CARRYING GAS—RECORDS FOR CORPORATION COMMISSION.

Sec. 6. Before any corporation, joint-stock company, limited copartnership, partnership or other persons shall have, possess, enjoy or exercise the right of eminent domain, right-of-way, right to locate, maintain or operate pipe lines, fixtures or equipment thereunto belonging, or used in connection therewith, as authorized by the provisions of this act, or shall have, possess, enjoy or exercise any right (the word "right" in this connection being used in its most comprehensive legal sense) conferred by this act, every such corporation, joint stock company, limited copartnership, partnership or other person, shall file in the

office of said Corporation Commission proper and explicit authorized acceptance of the provisions of this act and the Constitution of this state, in cases of pipe lines a plat showing in detail the points within this state between which, and the route along which the trunk lines are proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves and connections and appliances of all kinds used, or to be used, on said trunk or lines; and upon demand of the Corporation Commission the proper party or parties, as required, by said commission, shall properly file a plat showing in detail all the lines owned and operated by them, respectively, with full and explicit information as to their capacity, size and location, and the capacity of their pumping stations, gate valves, check valves and connections of all kinds, respectively, required or used in the operation thereof.

RIGHT OF WAY—HIGHWAYS—EMINENT DOMAIN.

Sec. 7. Every domestic pipe line company in this state is hereby given authority to build, construct, lay and maintain gas pipe lines, over, under, across, or through all highways, bridges, streets or alleys in this state or any public place under the supervision of the Corporation Commission as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid. Provided the right to lay gas pipe lines in cities be acquired as now provided by law, and subject to the responsibility as otherwise provided by law for any negligent injury thereby caused. All persons, natural or artificial, except foreign corporations, shall have the right of eminent domain, and any right or privilege hereby conferred, when necessary to make effective the purposes of this act and the rights thereby conferred. Foreign corporations organized under the laws of any other state territory, or the United States, and doing or proposing to do business in this state, and which shall have become a body corporate pursuant to or in accordance with the laws of this state, and which, as hereby provided, shall have registered its acceptance of the terms hereof, shall receive all the benefits by this act provided.

FILING RECORDS WITH CORPORATION COMMISSION—EXTENSION OF TIME.

Sec. 8. Upon a sworn statement of the necessities which would justify a judicial continuance, the Corporation Commission is authorized to extend the time for the filing of the said plats, not, however, to exceed 60 days.

ONLY 25 PER CENT OF CAPACITY OF GAS WELLS TO BE TAKEN.

Sec. 9. Every corporation, joint stock company, limited co-partnership or other person, now or hereafter claiming or exercising the right to produce natural gas, or to carry or to transport natural gas through pipe line or pipe lines, for hire, compensation, or otherwise within the limits of this state, is allowed by, and upon compliance with the requirements of this act, as owner, lessee, licensee, or by virtue of any other right or claim, is hereby prohibited from taking more than twenty-five (25) per cent of the daily natural flow of any gas well or wells unless for good cause shown, under the exigencies of the particular case the Corporation Commission shall establish a different per centum under the prescribed rules and regulations therefor.

METERS—REQUIREMENTS.

Sec. 10. No corporation, joint stock company, limited copartnership, partnership or person doing business under the provisions of this act shall purchase, collect, transport, convey or sell any gas from any wells in this state except

such gas as is run through properly constructed meters, the daily readings of which shall be carefully and accurately taken every twenty-four hours (24), and of which a true and correct report under oath shall be made every month and which report of all such business transacted during the next preceding month shall be filed not later than the fifteenth (15th) day of each and every month with the Corporation Commission and which report shall at all times be open to the inspection of the public. Such report shall be based upon such daily meter readings; shall show the amount of gas run or purchased from each tract of lands; lease or leasehold estate, the names of the seller or sellers of such gas and of the purchaser or purchasers thereof; and any person or persons making or directing, counseling, advising, aiding or abetting in the making or filing of any false report in the premises shall be deemed guilty of perjury, and on conviction thereof be punished as provided by law; and to the end that such meters shall be properly constructed, maintained, repaired and operated, their installation, use and operation shall at all times be subject to such rules and regulations as the Corporation Commission may prescribe.

VIOLATION OF ACT—PUNISHMENT.

Sec. 11. Any person, copartnership, or corporation, its agent or employees, violating any of the provisions of this act, or any order of a court of competent jurisdiction of this state, or the Corporation Commission, pursuant to the jurisdiction conferred by this act, shall, upon conviction thereof, be fined a sum of not less than one thousand dollars (\$1,000.00), nor more than five thousand dollars (\$5,000.00), or imprisonment not less than six months, nor more than one year, or by both such fine and imprisonment for each and every violation of this act; but in case the monthly runs or takings or transportation of gas shall average so as to be without discrimination, as herein provided, a transaction or transactions of any particular day or week or portions of a month shall be disregarded; and the court of competent jurisdiction of the county in which the omission or commission, which is in violation of this act, has occurred, shall have jurisdiction of an action under the Penal Code for the punishment thereof; and that said penalties shall not be exclusive of civil liability.

VIOLATIONS—RECEIVERSHIP—PROCEDURE.

Sec. 12. The Corporation Commission shall, upon being reasonably satisfied that any corporation has violated the provisions of this act, recommend to the Attorney General that a receiver be appointed for such corporation. Upon receipt of the recommendation by the Attorney General, he shall within ten days file a petition on behalf of the state in any court of competent jurisdiction, praying that a receiver be appointed, and such court shall immediately consider the application and appoint a receiver, if in the judgment of the court the provisions of this act have been willfully violated. The receiver, when appointed, shall immediately take charge of all the business, property and assets of such corporation in the state and shall retain possession thereof until it shall be determined upon the trial whether or not such corporation has violated the provisions of this act, then, in addition to the other penalties herein provided, all the property of said corporation shall be retained under such receivership until the penalties incurred hereunder are paid, after which the receivership may be discharged upon such terms and conditions as the court may impose as an assurance for the further compliance with this act.

EVIDENCE—REPORTS OF GAS COMPANIES.

Sec. 13. A properly certified transcript of the report of any such corporation, association, or person, shall, as against the makers thereof, be *prima facie* evidence of the truth of any matter therein contained.

ENFORCEMENT BY CORPORATION COMMISSION—APPEALS.

Sec. 14. The Corporation Commission is hereby authorized and empowered to enforce all the provisions of this act, including the employment of requisite help and gas experts to carry out the same, except where jurisdiction is conferred on some other branch of the state government by the Constitution of this state; appeals may be allowed from the decision of the Commission to the Supreme Court as now provided by law for appeals in other cases.

EXTENSION OF TIME FOR OPERATION OF ACT.

Sec. 15. For good cause shown, the Corporation Commission is authorized to extend the time within which this act shall operate as to any particular corporation, association or person not to exceed nine months after the same became effective.

EMERGENCY.

Sec. 16. For the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall be in force and effect from and after its passage and approval.

Approved March 26, 1913.

WASTE PREVENTED—CORPORATION COMMISSION—POWERS.

LAWS 1915, P. 326.

MARCH 30, 1915.

CHAPTER 197.

AN ACT to conserve natural gas in the state of Oklahoma, to prevent waste thereof, providing for the equitable taking and purchase of same, conferring authority on the Corporation Commission, prescribing a penalty for violation of this Act, repealing certain acts, and declaring an emergency.

Be it enacted, etc.:

WASTE PROHIBITED.

Sec. 1. That the production of natural gas in the State of Oklahoma, in such manner, and under such conditions as to constitute waste, shall be unlawful.

WASTE DEFINED.

Sec. 2. That the term waste, as used herein in addition to its ordinary meaning, shall include escape of natural gas in commercial quantities into the open air, the intentional drowning with water of a gas stratum capable of producing gas in commercial quantities, underground waste, the permitting of any natural gas well to wastefully burn and the wasteful utilization of such gas.

CONSERVATION OF GAS.

Sec. 3. That whenever natural gas in commercial quantities, or gas bearing stratum, known to contain natural gas in such quantity, is encountered in any well drilled for oil or gas in this state, such gas shall be confined to its original

stratum until such time as the same can be produced and utilized without waste, and all such strata shall be adequately protected from infiltrating waters. Any unrestricted flow of natural gas in excess of two million cubic feet per twenty-four hours shall be considered a commercial quantity thereof; provided, that if in the opinion of the Corporation Commission, gas of a lesser quantity shall be of commercial value, said Commission shall have authority to require the conservation of said gas in accordance with the provisions of this Act; and provided, further, the gauge of the capacity of any gas well shall not be taken until such well has been allowed an open flow for the period of three days.

EXCESS GAS SUPPLY—APPORTIONMENT.

Sec. 4. That whenever the full production from any common source of supply of natural gas in this state is in excess of the market demands, then any person, firm or corporation, having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by any such person, firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well, so as to prevent any such person, firm or corporation securing any unfair proportion of the gas therefrom; provided, that the Corporation Commission may by proper order, permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable. The said commission is authorized and directed to prescribe rules and regulations for the determination of the natural flow of any such well or wells, and to regulate the taking of natural gas from any or all such common sources of supply within the state, so as to prevent waste, protect the interests of the public, and of all those having a right to produce therefrom, and to prevent unreasonable discrimination in favor of any one such common source of supply as against another.

“COMMON PURCHASER”—FAIR TREATMENT.

Sec. 5. That every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this state, shall be a common purchaser thereof, and shall purchase all of the natural gas which may be offered for sale, and which may reasonably be reached by its trunk lines, or gathering lines without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Corporation Commission after due notice and hearing; but if any such person, firm or corporation, shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably. It shall be unlawful for any such common purchaser to discriminate between like grades and pressures of natural gas, or in favor of its own production, or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of prorating the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion that such production bears to the total production available for marketing. The Corporation Commission shall have authority to make regulations for the delivery, metering and equitable purchasing and taking of all such gas and shall have authority to relieve any such common purchaser, after due notice and hearing, from the duty of purchasing gas of an inferior quality or grade.

HEARINGS BEFORE CORPORATION COMMISSION—HOW CONDUCTED.

Sec. 6. That any person, firm or corporation, or the Attorney General, on behalf of the state may institute proceedings before the Corporation Commission, or apply for a hearing before said commission, upon any question relating to the enforcement of this Act; and jurisdiction is hereby conferred upon said commission to hear and determine the same, said commission shall set a time and place when such hearing shall be had and give reasonable notice thereof to all persons or classes interested therein by publication in some newspaper or newspapers having general circulation in the state, and shall in addition thereto cause notice to be served in writing upon any person, firm or corporation, complained against in the manner now provided by law for serving summons in civil actions. In the exercise and enforcement of such jurisdiction said commission is authorized to summon witnesses, make ancillary orders, and use such means and final process including inspection and punishment as for contempt, analogous to proceedings under its control over public service corporations as now provided by law.

APPEALS TO SUPREME COURT.

Sec. 7. That appellate jurisdiction is hereby conferred upon the Supreme Court of this state to review the orders of said commission made under this Act. Such appeal may be taken by any person, firm or corporation, shown by the record to be interested therein, in the same manner and time as appeals are allowed by law from other orders of the Corporation Commission. Said orders so appealed from, may be superseded by the commission or by the Supreme Court upon such terms and conditions as may be just and equitable.

POWER OF CORPORATION COMMISSION—RULES AND REGULATIONS.

Sec. 8. That the Corporation Commission shall have authority to make regulations for the prevention of waste of natural gas, and for the protection of all natural gas, fresh water, and oil bearing strata encountered in any well drilled for oil or natural gas, and to make such other rules and regulations, and to employ or appoint such agents, with the consent of the Governor, as may be necessary to enforce this Act.

ACCEPTANCE BY PIPE LINES.

Sec. 9. Before any person, firm or corporation shall have, possess, enjoy or exercise the right of eminent domain, right of way, right to locate, maintain, construct or operate pipe lines, fixtures, or equipments belonging thereto or used in connection therewith, for the carrying or transportation of natural gas, whether for hire or otherwise, or shall have the right to engage in the business of purchasing, piping, or transporting natural gas, as a public service, or otherwise, such person, firm or corporation, shall file in the office of the Corporation Commission a proper and explicit authorized acceptance of the provisions of this act.

DUTIES OF MINE INSPECTOR UNCHANGED.

Sec. 10. That nothing contained in this Act shall be construed to interfere with any duties now imposed by law upon the Chief Mine Inspector of the state or his deputies.

VALIDITY OF SEVERAL SECTIONS OF ACT INDEPENDENT.

Sec. 11. That the invalidity of any section, subdivision, clause, or sentence of this Act shall not in any manner affect the validity of the remaining portion thereof.

PENALTIES FOR VIOLATION.

Sec. 12. That in addition to any penalty that may be imposed by the Corporation Commission for contempt, any person, firm or corporation, or any officer, agent or employee thereof, directly or indirectly violating the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, in a court of contempt (competent) jurisdiction, shall be punished by a fine in any sum not to exceed five thousand dollars (\$5,000.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

EMERGENCY.

Sec. 13. For the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this Act shall take effect and be in force from and after its passage and approval.

Approved March 30, 1915.

OIL AND GAS.

LEASING RIVER BEDS AND STREAMS.

LEASING SCHOOL AND PUBLIC LANDS.

LEASING STATE LANDS.

LEASING—COUNTIES AND TOWNSHIPS.

LEASING RIVER BEDS AND STREAMS.

LAWS 1913, P. 712.

JUNE 28, 1913.

SENATE JOINT RESOLUTION NO. 18.

Being a proposed new section to Article VI of the constitution, providing certain powers and duties of the Commissioners of the Land Office.

Be it resolved by the Senate and House of Representatives of the Fourth Legislature in Extraordinary Session Assembled:

That the Secretary of State is hereby instructed to prepare and submit to the people of this state for ratification or rejection at the special election to be held August 5, 1913, the following proposed amendment to the Constitution, same to be a new section to article VI, to be numbered section 32-b, and to read as follows:

“Section 32-b. Until otherwise provided by law (a) river beds owned by the State may be leased for oil and gas by the Commissioners of the Land Office, only after advertisement of the date, place and terms of such leasing for twenty days in three daily newspapers of general circulation throughout the state, one of which is published in Oklahoma City, Muskogee or Tulsa. Such leases shall be made for royalty of not less than one-eighth of all the oil and gas produced thereon, and in addition thereto for the maximum bonus that may be obtained from any bidder. Not more than one mile of any such river bed in any

"proven" field shall be leased in any one contract, and not more than five miles of such river bed in any part thereof. Each lease contract shall stipulate that the same shall become null and void at the expiration of one year from the date thereof, except the lessee, his heirs, successors or assigns drill a well on the land included in said lease contract within said year.

"(b) Where any person, firm, association or corporation now has an oil or gas well upon any of the property of the State embraced within the beds, banks or islands of its navigable streams, such rights as may have been acquired in such well or wells shall be preserved to the owners thereof, but the Commissioners of the Land Office shall proceed to ascertain the ownership of any such oil or gas wells and the rights of the proprietors therein, and shall collect royalties on all oil or gas produced on said lands not heretofore paid the state, and may permit owners or proprietors of such wells to continue to operate the same upon such reasonable royalties as are customary in the locality; provided, that such rate of royalty shall not be less than the rate stated in the contract, or lease under which such well or wells have been drilled; provided, further, that where any person, company, or corporation has drilled a well without a valid lease the land where said well is located shall be leased as if no well or wells had been drilled. If any owner or proprietor shall refuse to pay the royalties payable upon the production of any such well, then the Commissioners of the Land Office shall take control of the same, sell the production and pay the money so secured into the State Treasury.

"(c) No lease of river beds owned by the state shall be made for sand or gravel, but all persons, firms, or corporations shipping sand or gravel from such river beds shall pay to the Commissioners of the Land Office, monthly, a royalty of two and one-half cents per cubic yard for the same; provided, that no royalty shall be charged or collected from anyone hauling sand or gravel from such river beds with a wagon and team.

"(d) All sums collected under the provisions of this act as royalty, bonus or rental shall be turned into the State Treasury to the credit of the common school fund of the state.

"(e) Whenever the United States has heretofore made and established a survey on either side of a navigable stream, for the purpose of fixing the boundary lines of the land abutting upon the banks of such stream, the meander boundary lines of such survey along the borders of such stream shall be taken and accepted as the high water mark at all such points, and where such surveys are made upon opposite sides of such stream, all the territory or area between such meander lines shall belong to the beds of such streams.

"(f) The provisions of this act shall not be construed in any manner to prejudice, impair, alter or affect the vested rights of any Indian tribe, allottee of such tribe, or other person in and to the beds of the rivers or streams within the state that may have accrued or become vested under any law of this state, or under any act of Congress or treaties or agreements made by the United States with any such Indian tribe."

Passed the Senate the 8th day of May, 1913.

Passed the House of Representatives the 28th day of June, 1913.

Disapproved by the Governor July 19, 1913.

LAWS 1919, P. 293.

MARCH 28, 1919.

CHAPTER 206.

AN ACT authorizing the Commissioners of the Land Office to lease for oil and gas purposes all lands between mean high water mark in all streams or rivers of two chains or over and defining riparian rights: All such streams are declared the property of the State of Oklahoma, and declaring an emergency.

Be it enacted, etc.:

LEASING AUTHORIZED.

Sec. 1. The Commissioners of the Land Office are hereby authorized to lease for oil and gas purposes all lands between mean high water mark in all streams or rivers of two chains or over; all such streams are declared the property of the State of Oklahoma.

MODE OF LEASING.

Sec. 2. Said lands are to be leased under the same provisions as the school and other lands of the State of Oklahoma.

EMERGENCY.

Sec. 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this Act shall take effect and be in full force from and after its passage and approval.

Approved March 28, 1919.

LEASING SCHOOL AND PUBLIC LANDS.

LAWS 1917, P. 462.

MARCH 30, 1917.

CHAPTER 253.

AN ACT regulating the leasing of school and other public lands owned by the State for oil and gas purposes, and declaring an emergency.

Be it enacted, etc.:

COMMISSIONERS OF THE LAND OFFICE—LEASES.

Sec. 1. The Commissioners of the Land Office are authorized to lease for oil and gas purposes any of the school or other lands owned by the State of Oklahoma, which such commissioners may deem valuable for oil and gas, for the term of five years and as long thereafter as oil or gas may be produced therefrom in paying quantities, upon such terms and conditions and in such quantities as the commissioners shall by rules and regulations prescribe. Each such lease shall provide for the delivery to the State of a royalty of not less than one-eighth part of the oil or gas produced from the leased premises or in lieu thereof the payment to the State of the market value of said royalty interest, as the commissioners may elect. Such leasing shall be made by public competition after not less than thirty days' notice by publication in two newspapers authorized by law to publish legal notices, one of which newspapers shall be published at the State Capitol, and the other in the county where the land is situated, such leasing shall be let by sealed bids and each lease awarded to the highest responsible bidder. Such oil and gas leases may be assigned only with the consent and approval of the Commissioners of the Land Office. Provided, that the commissioners have the right to reject any and all bids.

EMPOWERED TO SEGREGATE.

Sec. 2. The commissioners are empowered to segregate any of the school or public lands for mineral purposes which the commissioners may, by order entered of record, determine to be valuable for oil, gas or mineral purposes, and each agricultural, grazing or other lease of the surface rights or interest in any land so segregated shall reserve to the State its lessees or grantees, the right to explore, drill and operate for oil or gas on such lands as well as the right to enter upon the said lands and enjoy the mining rights so reserved.

TERM OF LEASE.

Sec. 3. All oil and gas leases executed by the Commissioners of the Land Office shall be for a term of five years and as long thereafter as oil or gas may be produced in paying quantities; provided, upon the forfeiture, or cancellation or surrender, or expiration of lease by reason of its termination on account of the five years limit, provided for in the "Enabling Act," or any other cause, the school land commissioners shall provide for the leasing of such land in the same way and in the same manner that the School Land Commissioners lease land which has never been leased: Provided, on such leases which are surrendered or which may expire or which have expired, the lessees or assigns shall have the value of the physical properties on such lease, which value shall be determined by a board of appraisers especially appointed, by the School Land Commissioners for the appraising of physical property of leases: Provided, no physical property valuation shall be attached or considered in the making of a lease on a tract consisting of more than 640 acres. If no well shall be completed upon any leased premises within one year from the date of the lease, the lessee shall pay to the State of Oklahoma an annual rental in advance of such sum per acre as the commissioners shall prescribe in the lease, which payment shall operate to defer the completion of a well during the year for which such rental payment is made.

PROVISIONS OF LEASE.

Sec. 4. All leases for oil and gas shall contain a provision to drill one well on each leased tract within one year from the date of such lease or on failure to complete such well to pay an annual rental per acre as hereinbefore provided. All such leases shall further provide that the lessee shall drill a sufficient number of wells upon the leased lands to offset all producing wells upon any adjoining or contiguous lands, and a further provision that the failure of the lessee to diligently and in good faith operate the leased premises for oil and gas to as full an extent as other lands are operated in the general oil and gas field where such leased lands is located shall forfeit all rights of the lessee under such lease. Each lessee shall execute a bond to the State of Oklahoma with sureties to the approval of the commissioners and in such sum as the commissioners shall prescribe, conditioned for the faithful performance of the provisions of the lease and for the payment of all recoverable damages, which such lessee may cause to the property, crops or rights of the surface lessee.

Each lease shall further provide that in the event the State shall at any time operate a refinery for the refining of crude petroleum or the extraction of any of its products or by-products the State shall have the preference right to purchase and take the production or output of any such oil or gas well at the prevailing market price thereof, upon the commissioners serving written notice upon the owners of any well, of the purpose and readiness of the State to take such production.

RULES GOVERNING LEASES.

Sec. 5. The Commissioners of the Land Office may adopt and promulgate appropriate rules and regulations for carrying into effect the provisions of this act, but no restrictions or prohibitions against any bidder or prospective bidder shall be made other than as provided in this act.

LESSEE—LIABLE—SURFACE—OWNERS.

Sec. 6. The lessee, under any oil or gas lease executed by the Commissioners of the Land Office shall be liable to the surface owner or lessee for all injury, damage or loss occurring to the surface interest, interest in such lands or to any building, crops or improvements, or other property, located upon or used in connection with said land.

FUNDS—BONUSES—ROYALTIES.

Sec. 7. All funds arising from bonuses, royalties or rentals for oil and gas leases, shall be carried into and credited to the permanent funds for the use and purpose designated in the grant of such lands by Congress to the State of Oklahoma and all such funds shall be kept, handled and used in like manner as other moneys belonging to said permanent funds.

ACTS IN CONFLICT REPEALED.

Sec. 8. All acts or parts of acts inconsistent herewith, are hereby repealed.

EMERGENCY.

Sec. 9. For the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof, this act shall take effect and be in force from and after its passage and approval.

Approved this 30th day of March, 1917.

LEASING STATE LANDS.

CHAPTER 223.

LAWS 1917, P. 407.

MARCH 23, 1917.

AN ACT to authorize the State Board of public affairs to lease the penitentiary lands at McAlester, or other State lands on which penal or eleemosynary institutions are located, for drilling for oil and gas.

Be it enacted, etc.:

BOARD OF AFFAIRS—TO LEASE.

Sec. 1. The State Board of Public Affairs is hereby authorized to lease for drilling and development of oil or gas, or both, any of the lands belonging to the State, on which are located penal or eleemosynary institutions, or are connected with or a part of the lands of such institutions. Such leasing to be made by public competition after not less than thirty days advertisement, as now provided by law for the leasing of other State or school lands for oil and gas purposes, and in such manner as said board may by rule prescribe. All such leasing must be on sealed bids and awarded to the highest responsible

bidder, and for such period as said board of public affairs may determine, provided said board may reject any and all bids. The oil and gas interest in such land hereby authorized to be leased, is to the extent and in the manner that a private owner of lands in fee, may in his own right, execute such lease or grant, and provided further, that such lease before becoming effective or having validity, shall be approved by the Governor of the State.

EMERGENCY.

Sec. 2. For the preservation of the public peace, health, and safety, an emergency is hereby declared to exist, by reason whereof, this act shall take effect and be in force from and after its passage and approval.

Approved March 23, 1917.

LAWS 1919, P. 442.

MARCH 15, 1919.

CHAPTER 304.

SENATE JOINT RESOLUTION.

NO. 4.

AUTHORIZING CERTAIN SUPPLEMENTAL OIL LEASE CONTRACTS.

RESOLUTION giving permission to Commissioners of Land Office to execute supplementary contracts in connection with certain oil and gas leases.

WHEREAS, On the 29th day of August, 1916, the Commissioners of the Land Office of the State of Oklahoma executed an oil and gas mining lease to J. S. Harris on segregated land in township five (5) north, and township six (6) north, range five (5) east of the Cimarron Meridian, and township five (5) north and township six (6) north of range six (6) east of the Cimarron Meridian, Cimarron County, State of Oklahoma; also on the 31st day of July, 1916, the Commissioner of the Land Office of the State of Oklahoma, executed an oil and gas mining lease to Arthur O'Dell on segregated lands in townships four (4), five (5) and six (6) north of range one (1), east of the Cimarron Meridian, Cimarron County, State of Oklahoma; and

Whereas, The State still owns approximately one hundred thousand (100,000) acres of land segregated for oil and gas, lying directly between the two tracts above mentioned, and on the same structure, and is yet unleased; and

Whereas, On account of the lack of transportation facilities reaching this land, development of same is necessarily expensive and difficult as well as slow; and

Whereas, Said J. S. Harris and Arthur O'Dell, through their assignees and associates, have expended a great deal of money, an amount approximating one hundred and twenty thousand (\$120,000) dollars, in drilling for oil and gas on their said tract; and

Whereas, It is of greatest importance to the State of Oklahoma that these tracts be fully tested for gas and oil to the end that they may be further developed; Now, therefore

Be it resolved by the senate and house of representatives of the State of Oklahoma:

CONTRACTS AUTHORIZED.

That the Commissioners of the Land Office shall be, and they are hereby authorized to execute supplemental contracts to lessees on all lease contracts embracing more than thirty thousand (30,000) acres in one body without sub-

mitting same to bids for the renewal of said leases, providing that if oil and gas, or either of them, are being produced on said tracts of land in paying quantities at the expiration of said leases, that then, and in that event, said leases shall be extended for so long a period of time as gas and oil, or either of them, shall be produced on said tracts of land in paying quantities: Provided, however, that drilling operations shall be commenced within six months from the date of passage of this resolution, and shall be prosecuted with diligence.

Adopted by the Senate, February 24, 1919.

Adopted by the House of Representatives March 8, 1919.

Approved March 15, 1919.

LEASING—COUNTIES AND TOWNSHIPS.

LAWS 1919, P. 253.

MARCH 28, 1919.

CHAPTER 179.

AN ACT providing method for county, town, or township to grant lease to any person, association or corporation, land owned for the purpose of making permanent improvements thereon, or oil and gas development, and repealing all laws in conflict herewith.

Be it enacted, etc.:

LEASING AUTHORIZED.

Sec. 1. Any county, town or township that now owns or may hereafter acquire any land, other than town or city lots, under the control of a Board of County Commissioners, Board of Town Trustees, or Board of Township Trustees, is hereby authorized and empowered to enter into a valid contract to lease such lands to any person, association or corporation for a term of years not to exceed ten years, for the purpose of constructing permanent improvements thereon, or oil and gas development; this law does not apply to agricultural purposes.

PETITION AND ELECTION.

Sec. 2. Upon petition of twenty-five (25%) per cent of the legal voters of any county, town or township, a special election shall be called and held in accordance with the election laws of the State and the proposition, to grant a lease as provided in Section One, shall be set out fully and at said election if a majority of the votes cast is in favor of the proposition, then such Board of County Commissioners, Board of Town Trustees, or Board of Township Trustees shall execute a lease to the land so owned, which shall be binding upon the Board and its successors in office.

REPEAL OF CONFLICTING LAWS.

Sec. 3. All Acts and parts of Acts in conflict herewith are hereby repealed.
Approved March 28, 1919.

OIL.

DEALERS IN OIL—REGULATIONS—CONDITIONS FOR OPERATIONS—CORPORATION COMMISSION.

WASTE PREVENTED—PRODUCTION—REGULATIONS—CORPORATION COMMISSION.

DEALERS IN OIL—REGULATIONS—CONDITIONS FOR OPERATIONS—CORPORATION COMMISSION.

LAWS 1909, P. 425.

MARCH 27, 1909.

R. S. 1910, SECS. 4303-4318.

CHAPTER XXVI.

ART. I.

AN ACT to regulate all corporations, associations, and persons engaged, in this state, in the business of carrying crude petroleum, or its products, through pipe lines; to regulate operators of oil wells and refineries of crude petroleum and its products, regulating the purchasing of mineral oil by pipe lines, providing punishments for violations thereof, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. Every corporation, joint stock company, limited co-partnership, partnership or other person, now or hereafter exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof, by or through pipe lines or line, for hire, compensation or otherwise, or now or hereafter exercising or claiming the right to engage in the business of producing crude oil or petroleum, or of refining it, or manufacturing any of the products thereof, or of storing crude oil or petroleum now or hereafter produced by it, or any other person or persons, or now or hereafter engaging in the business of buying, selling or dealing in crude oil or petroleum, within the limits of this state, shall not have or possess the right to conduct or engage in said business or operations, in whole or in part, as above described, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures and equipment thereunto belonging, or used in connection therewith, concerning the said business of carrying or transporting crude oil or petroleum as aforesaid, on, over, along, across, through, in or under any present or future highway, or part thereof, within this state, or have or possess the right of eminent domain, or any other right or rights, concerning said business or operations, in whole or in part, except as authorized by and subject to the provisions of this act, except, further, and only such right or rights as may already exist which are valid, vested, and incapable of revocation by any law of this state or of the United States. The word "Petroleum" as used herein means all crude oil and its manufactured products, not including natural gas.

Sec. 2. For the purpose of acquiring necessary right-of-way, every such person is hereby granted the right of condemnation by eminent domain, and the use of the highways in this state, for the purpose of transporting petroleum by pipe lines, and the location, laying, construction, maintaining and operation thereof.

Corporations of other states and territories, or of the United States, otherwise admissible to do business in this state, may get the benefit of this act upon compliance with the laws and constitution of this state, including the provisions of section 31, of article 9, of the constitution, but until such compliance shall have no rights in, on, or under the highways.

The word "Person," as used in this act, means any natural person, partnership, or association of persons, or any corporation organized under the laws of the State of Oklahoma.

Sec. 3. Every corporation, joint-stock company, limited co-partnership, partnership or other person, now or hereafter claiming or exercising the right to carry or transport crude oil or petroleum or any of the products thereof, by pipe line or pipe lines, for hire, compensation, or otherwise, within the limits of this state, as allowed by, and upon compliance with the requirements of this act, as owner, lessee, licensee, or by virtue of any other right or claim, which is now engaged or hereafter shall engage in the business of purchasing crude oil, or petroleum therein, shall be a common purchaser thereof, and shall purchase all the petroleum in the vicinity of, or which may be reasonably reached by its pipe lines, or gathering branches, without discrimination in favor of one producer or one person as against another, and shall fully perform all the duties of a common purchaser; but if it shall be unable to perform the same, or be legally excused from purchasing and transporting all of the petroleum produced, then it shall purchase and transport petroleum from each person and producer ratably, in proportion to the average daily production, and such common purchasers are hereby expressly prohibited from discrimination in price or amount for like grades of oil, or facilities as between producers or persons; and in the event it is likewise a producer, it is hereby prohibited from discriminating in favor of its own production, or storage, or production or storage in which it may be interested directly or indirectly in whole or in part, and its own production and storage shall be treated as that of any other person or producer.

All persons, firms, associations, and corporations are exempted from the provisions of this act, where the nature and extent of their business is such that the public needs no use in the same, and the conduct of the same is not a matter of public consequence, and for this purpose the district courts of the state and the Corporation Commission are hereby vested with jurisdiction to determine such exemptions in any action or proceeding properly before them, as provided in this act.

Sec. 4. Every corporation, joint-stock company, limited copartnership, partnership or other person, now or hereafter engaged in the business of carrying or transporting crude oil or petroleum, or any of the products thereof, for hire or compensation or otherwise, by pipe line or pipe lines, within this state, and by virtue of and in conformity to, any valid law incapable of revocation by any law of this state or of the United States, or by virtue of and in conformity to the provisions of this act, shall be a common carrier thereof as at common law, and no such common carrier shall allow or be guilty of any unjust or unlawful discrimination, directly or indirectly, in favor of the carriage, transportation, storage or delivery of any crude, stock or storage oil, or any products thereof, in its possession or control, or in which it may be interested, directly or indirectly.

Sec. 5. It shall be unlawful for any corporation, joint stock company, limited copartnership, partnership or other person, now or hereafter engaged in the business of carrying or transporting crude oil or petroleum, or any of the products thereof, for hire or compensation or otherwise, within the limits of this act, and not becoming a common purchaser as defined by and accepting the provisions of this act, to own or operate, directly or indirectly any oil well or wells, oil leases, or oil holdings or interests in this state, after six months next after the approval of this act, and each and every of said

corporations, joint stock companies, limited copartnerships, partnership or other person, shall divest themselves of all legal or equitable ownership, interest or control, directly or indirectly, in oil well or wells, oil leases or oil holdings or interests in this state.

NOTE: Sections 6 to 8, inclusive, are under the title, Pipe Lines.

Sec. 9. Any person, copartnership, or corporation, its agent or employee, violating any of the provisions of this act, or any order of the competent courts of this state, or the Corporation Commission, pursuant to the jurisdiction conferred by this act, shall upon conviction thereof, be fined a sum of not less than one thousand dollars, nor more than five thousand dollars or imprisonment for not less than 6 months, nor more than 1 year, or by both such fine and imprisonment for each and every violation of this act; but in case the monthly runs or takings or transportation of oil shall average so as to be without discrimination, as herein provided, the transaction or transactions of any particular day or week or portion of a month shall be disregarded; and the competent court of the county in which the omission or commission, which is a violation of this act, has occurred, shall have jurisdiction of an action under the penal code for the punishment thereof; and that said penalties shall not be exclusive of civil liability.

Whenever the operation of a valid order of a competent court or the Corporation Commission is duly suspended, according to law, the punitive provisions of this act shall likewise be suspended in their operation as to the transactions adjudicated in said court, and further, any court having jurisdiction of an action brought by the state to punish for a violation under the terms of this act shall not impose a punishment therefor greater than five hundred dollars against either a person, or corporation, if it finds from the evidence that the violation was made solely with the object of testing according to law the validity of any of the provisions of this act, or of the order of any competent court or of the Corporation Commission, in any proceeding to carry out the provisions hereof.

Sec. 10. A properly certified transcript of the report of any such corporation, association, or person shall, as against the maker or makers thereof, be prima facie evidence of the truth of any matter therein contained.

Sec. 11. Whenever the operation of the order of such court or corporation commission is duly suspended, according to law, the punitive provisions of this act shall likewise be suspended in their operation as to the transaction adjudicated in said courts.

Sec. 12. For good cause shown, the Corporation Commission is authorized to extend the time within which this act shall operate as to any particular corporation, association or person not to exceed 9 months after the same becomes effective.

Sec. 13. For the preservation of the public peace, health and safety an emergency is hereby declared to exist, by reason whereof this act shall be in force and effect from and after its passage and approval.

WASTE PREVENTED—PRODUCTION—REGULATIONS—CORPORATION COMMISSION.

LAWS 1915, P. 28.

FEBRUARY 11, 1915.

CHAPTER 25.

AN ACT defining and prohibiting the waste of crude oil or petroleum, providing for the equitable taking of the same from the ground and conferring authority on the Corporation Commission, prescribing the penalty for the violation of this Act, and declaring an emergency.

Be it enacted, etc.:

WASTE PROHIBITED.

Sec. 1. That the production of crude oil or petroleum in the State of Oklahoma, in such manner and under such conditions as to constitute waste, is hereby prohibited.

PRODUCTION AND SALE REGULATED—CORPORATION COMMISSION.

Sec. 2. That the taking of crude oil or petroleum from any oil-bearing sand or sands in the State of Oklahoma at a time when there is not a market demand therefor at the well at a price equivalent to the actual value of such crude oil or petroleum is hereby prohibited, and the actual value of such crude oil or petroleum at any time shall be the average value as near as may be ascertained in the United States at retail of the by-products of such crude oil or petroleum when refined less the cost and a reasonable profit in the business of transporting, refining and marketing the same, and the Corporation Commission of this State is hereby invested with the authority and power to investigate and determine from time to time the actual value of such crude oil or petroleum by the standard herein provided, and when so determined said Commission shall promulgate its findings by its orders duly made and recorded, and publish the same in some newspaper of general circulation in the state.

WASTE DEFINED—PROTECTION.

Sec. 3. That the term "waste" as used herein, in addition to its ordinary meaning shall include economic waste, underground waste, surface waste and waste incident to the production of crude oil or petroleum in excess of transportation or marketing facilities or reasonable market demands. The Corporation Commission shall have authority to make rules and regulations for the prevention of such wastes, and for the protection of all fresh water strata, and oil and gas bearing strata, encountered in any well drilled for oil.

PRODUCTION REGULATED—DISCRIMINATION OF PURCHASER PROHIBITED.

Sec. 4. That whenever the full production from any common source of supply of crude oil or petroleum in this State can only be obtained under conditions constituting waste, as herein defined, then any person, firm or corporation, having the right to drill into and produce oil from any such common source of supply, may take therefrom only such proportion of all crude oil and petroleum that may be produced therefrom, without waste, as the production of the well or wells of any such person, firm or corporation, bears to the total production of such common source of supply. The Corporation Commission is authorized to so regulate the taking of crude oil or petroleum from any or all such common sources of supply, within the State of Oklahoma, as to prevent the in-

equitable or unfair taking, from a common source of supply, of such crude oil or petroleum, by any person, firm, or corporation, and to prevent unreasonable discrimination in favor of any one such common source of supply as against another.

WELLS GAGED—GOVERNMENT TO CONSENT.

Sec. 5. That for the purpose of determining such production, a gauge of each well shall be taken under rules and regulations to be prescribed by the Corporation Commission, and said Commission is authorized and directed to make and promulgate, by proper order, such other rules and regulations, and to employ or appoint such agents with the consent of the Governor, as may be necessary to enforce this act.

ENFORCEMENT OF ACT—HEARINGS BEFORE CORPORATION COMMISSION.

Sec. 6. That any person, firm or corporation, or the Attorney General on behalf of the State, may institute proceedings before the Corporation Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this act, and jurisdiction is hereby conferred upon said Commission to hear and determine the same. Said Commission shall set a time and place, when and where such hearing shall be had and give reasonable notice thereof to all persons or classes interested therein, by publication in some newspaper or newspapers, having general circulation in the State, and in addition thereto, shall cause reasonable notice in writing to be served personally on any person, firm or corporation complained against. In the exercise and enforcement of such jurisdiction, said Commission is authorized to determine any question of fact, arising hereunder, and to summon witnesses, make ancillary orders, and use mesne and final process, including inspection and punishment as for contempt, analogous to proceedings under its control over public service corporations, as now provided by law.

APPEALS TO SUPREME COURT—EFFECT ON ORDERS.

Sec. 7. That appellate jurisdiction is hereby conferred upon the Supreme Court in this State to review the action of said Commission in making any order, or orders, under this act. Such appeal may be taken by any person, firm or corporation, shown by the record to be interested therein, in the same manner and time as appeals are allowed by law from other orders of the Corporation Commission. Said orders so appealed from shall not be superseded by the mere fact of such appeal being taken, but shall be and remain in full force and effect until legally suspended or set aside by the Supreme Court.

PENALTY FOR VIOLATION.

Sec. 8. That in addition to any penalty that may be imposed by the Corporation Commission for contempt, any person, firm or corporation, or any officer, agent or employee thereof, directly or indirectly violating the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not to exceed five thousand dollars (\$5,000.00), or by imprisonment in the county jail not to exceed thirty (30) days, or by both fine and imprisonment.

STATE MAY SECURE RECEIVER—EXTENT AND MANNER.

Sec. 9. That in addition to any penalty imposed under the preceding section, any person, firm or corporation, violating the provisions of this act, shall be subject to have his or its producing property placed in the hands of a receiver

by a court of competent jurisdiction, at the suit of the State through the Attorney General or any county attorney, but such receivership shall only extend to the operating of producing wells and the marketing of the production thereof, under the provisions of this act.

VALIDITY OF RELATIVE SECTIONS OF ACT.

Sec. 10. That the invalidity of any section, sub-division, clause or sentence of this act shall not in any manner effect the validity of the remaining portion thereof.

EMERGENCY.

Sec. 11. For the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1915.

OIL AND GAS WELLS.

DRILLING—INSPECTION AND SUPERVISION.

PLUGGING REQUIRED.

RECORD OF PLUGGED AND ABANDONED WELLS.

LIEN FOR LABOR AND SUPPLIES.

DRILLING—INSPECTION AND SUPERVISION.

LAWS 1913, P. 459.

MAY 17, 1913.

CHAPTER 207.

AN ACT to amend the provisions of article three (3) of chapter seventy-five (75) of Snyder's Compiled Laws of 1909, relating to oil and gas. (Sec. 7b of the Act of March 27, 1909).

Be it enacted, etc.:

INSPECTORS—APPOINTMENT—QUALIFICATIONS—DUTIES—COMPENSATION.

Sec. 1. That section 4839 of article three (3), chapter seventy-five (75) of Snyder's Compiled Laws of Oklahoma, 1909, be and the same is hereby amended so as to read as follows:

"Section 4839. The Chief Mine Inspector shall appoint, subject to removal by him, such deputies of practical experience in operating and drilling oil and gas wells, and who are not directly or indirectly interested in the production of oil or gas, as may be necessary to the full and prompt performance of the duties required by law. The Chief Mine Inspector, or his deputies, shall personally supervise the using and operating of natural gas in this state, and the proper observance of the laws of the state dealing with the drilling for and production of oil and gas, or the piping, storage, purchase and use thereof in this state, and shall promptly report any violation of such laws of (to) the county attorney of the county in which such violation may occur. Said Chief Mine Inspector shall designate one of his deputies to be chief deputy inspector of oil and gas wells, and pipe lines, and all duly appointed deputies shall reside at places convenient for the performance of their duties, and a record of their residence shall be kept on file in the office of the Chief Mine Inspector, and be open to the inspection of all persons interested.

The chief deputy inspector of oil and gas wells and pipe lines shall receive a compensation not to exceed two thousand (\$2,000.00) dollars per annum and necessary traveling and maintenance expenses while absent from his office in the performance of his duties, and all other deputies so duly appointed shall receive as compensation not to exceed five dollars (\$5.00) per day and their actual and necessary traveling and maintenance expenses while absent from home in the performance of their duties.

Approved May 17, 1913.

PLUGGING REQUIRED.

LAWS 1905, P. 309.

MARCH 15, 1905.

CHAPTER XXVI.

OIL AND GAS WELLS.

ARTICLE I.

PLUGGING.

AN ACT to Protect and Regulate the Drilling and Operation of Oil and Gas Wells in Oklahoma Territory.

Be it enacted, etc.:

Sec. 1. The owner or operator of any well put down for the purpose of exploring for or producing oil or gas, shall, before drilling into the oil or gas bearing rock, incase the well with good and sufficient casing, and in such manner as to exclude all water from above from penetrating the oil or gas bearing rock. Should any well be put down through the first into a lower oil or gas-bearing rock the same shall be cased in such manner as to exclude all fresh or salt water from both upper or lower gas-bearing rocks penetrated.

Sec. 2. The owner of any well, when about to abandon or cease operating the same, for the purpose of excluding all fresh or salt water from penetrating the oil or gas-bearing rocks, and before drawing the casing, shall fill the well with sand or rock sediment to the depth of ten feet above the top of each oil or gas bearing rock, and drive therein a round, tapered, seasoned wooden plug at least two feet in length, and in diameter equal to the full diameter of the well below the casing, and immediately upon drawing the casing shall fill in on top of such plug with sand or rock sediment to the depth of five feet, and again drive into the well a round wooden plug three feet in length, the lower end tapering to a point, and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well above the point at which the casing rested and the plug is driven; and after such plug has been driven, the well shall be filled with sand or rock sediment to the depth of not less than twenty feet.

Sec. 3. Whenever any person may be injured by the neglect or refusal to comply with the provisions of Section two of this Act, it shall be lawful for such person, after notice to the owner, lessee or care taker of the premises upon which such well is located, to enter upon and fill up and plug such well in the manner herein provided, and thereupon to recover the expense thereof, from the person or persons whose duty it was to plug or fill up such well in like manner as debts of such amounts are recoverable, and shall have a lien upon the fixtures and machinery and leasehold interests of the owner or operator of such well.

Sec. 4. Any person violating the provisions of Section two of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be sen-

tenced to pay a fine of not more than one thousand dollars, or to undergo an imprisonment for a period not exceeding six months, or both such fine and imprisonment, at the discretion of the court. Such fine, when collected, to go to the county school fund of such county in which such well may be located.

Sec. 5. That any person, co-partnership or corporation in possession, either as owner, lessee, agent or manager of any well producing natural gas in order to prevent the said gas from wasting by escape, shall, within ten days after this act takes effect, and thereafter within ten days after penetrating the gas-bearing rock in any well drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for light, or fuel, or steam power: Provided, that this Section shall not apply to any well that is operated for oil, when the production of oil has a greater available market value than the production of gas therefrom, or during the process of drilling with reasonable diligence, or when oil is found in a lower strata of sand and the well is operated as an oil well and the gas from the upper strata of sand is cased off.

Sec. 6. That it shall be unlawful for any person, co-partnership or corporation to use natural gas for illuminating purposes other than in what is known as storm burners, or other burners consuming more gas than such storm burners, and any one using such gas in the open air, or in or around derricks, shall turn off said gas not later than eight o'clock in the morning of each day such lights are burning or used, and shall not turn on or relight the same between the hours of eight o'clock A. M., and five o'clock P. M.

Sec. 7. After the lapse of the period of ten days, unavoidable accidents excepted, from the bringing in of any oil or gas well, each and every day that said well or wells are allowed to go uncontrolled or uncared for, as directed by this statute, shall be treated as a separate offense.

Sec. 8. Any owner or operator or person who shall violate any of the provisions of Section five or six of this Act shall be guilty of a misdemeanor, and shall be fined in a sum not exceeding one thousand dollars for each and every offense, which fine, when collected, shall be paid to the school fund of the county in which the well is situated.

Sec. 9. This Act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1905.

RECORD OF PLUGGED AND ABANDONED WELLS.

LAWS 1910, P. 106.

MARCH 16, 1910.

REVISED STATUTES 1910, SEC. 4326.

CHAPTER 62.

AN ACT providing that the records of the oil and gas inspector of the state as to plugged oil and gas wells shall be open to public inspection.

Be it enacted, etc.:

“ PLUGGED WELL RECORD ” KEPT OPEN TO PUBLIC.

Sec. 1. The oil and gas inspector of the state shall cause to be systematically filed the records of all oil and gas wells and dry holes plugged in accordance with section 7 “A” of House Bill No. 238, which was approved March 27, 1909, being an act entitled, “An act to regulate the use and preservation of oil and gas and providing a penalty for the violation thereof; providing for an inspec-

tor, his duties, compensation, and appropriation therefor, and declaring an emergency," showing the exact location of each of such wells, the name of the owner, the depth of the wells, and the formation encountered in drilling such wells. These records shall be kept in a book in the office of the Chief Mine Inspector of the State, which shall be known as the "Plugged Well Record," and shall be accessible to public inspection at such regular hours as the Chief Mine Inspector shall direct, not less than two (2) hours per day.

EMERGENCY.

Sec. 2. An emergency is hereby declared by reason whereof it is necessary for the immediate preservation of the public peace and safety that this act take effect from and after its passage and approval.

Approved, March 16, 1910.

LAWS 1917, P. 386.

MARCH 24, 1917.

CHAPTER 208.

AN ACT providing for compiling, publishing and printing a record of all abandoned oil and gas wells, and dry holes plugged under the supervision of the Chief Inspector of mines, oil and gas, covering the period from June 30th, 1912, down to and including June 30, 1917. Making an appropriation therefor, and declaring an emergency.

Be it enacted, etc.:

WELLS ABANDONED—RECORD PRINTED.

Sec. 1. The Corporation Commission of the State of Oklahoma is authorized and directed to compile and have published and printed a complete record of all abandoned oil and gas wells and dry holes that have been plugged under the supervision of the Chief Mine Inspector, as shown by the reports of Deputy Oil and Gas Inspectors and the affidavits in regard thereto returned by said inspectors covering the period from June 30th, 1912, down to and including June 30th, 1917, which compilation shall be classified by sections, township and range.

APPROPRIATION.

Sec. 2. There is hereby appropriated out of the Treasury of the State of Oklahoma from moneys, not otherwise appropriated, the sum of \$4,000.00, or so much thereof as may be necessary to cover the cost of compiling, publishing and printing the said record.

EMERGENCY.

Sec. 3. For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof, it is necessary that this act take effect and be in force from and after its passage and approval.

Approved March 24, 1917.

LIEN FOR LABOR AND SUPPLIES.

LAWS 1919, P. 367.

APRIL 4, 1919.

CHAPTER 258.

AN ACT amending Section 3862 of the Revised Laws of Oklahoma, 1910, relating to labor and materialman's lien, and Section 3865 of the Revised Laws of Oklahoma, 1910, relating to liens on oil or gas wells for labor or supplies, and declaring an emergency.

Be it enacted, etc.:

* * * * *

OIL AND GAS WELL LIENS.

Sec. 2. That Section 3865 of the Revised Laws of Oklahoma, 1910, be and the same is hereby amended to read as follows:

"Section 3865. Any person, corporation or co-partnership who shall, under contract express or implied, with the owner of any leasehold for oil and gas purposes or the owner of any gas pipe line or oil pipe line, or with the trustee or agent of such owner, perform labor or furnish material, machinery and oil well supplies used in the digging, drilling, torpedoing, completing, operating or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing or repairing of any gas well, shall have a lien upon the whole of such leasehold or oil pipe line or gas pipe line, or lease for oil and gas purposes, the buildings and appurtenances, and upon the material and supplies so furnished and upon the oil or gas well for which they were furnished, and upon all the other oil or gas wells, fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor performed. Such lien shall be preferred to all other liens or incumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipe line, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this Article shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor."

DISCHARGE OF LIEN.

Sec. 3. Any person against whom a claim is filed under the provisions of the law relating to mechanics' and materialmen's liens may at any time upon three (3) days notice in writing to the claimant discharge such lien by depositing with the Court Clerk in whose office such lien claim has been filed the amount of such claim in cash and executing and filing with such Court Clerk a good and sufficient bond to the claim (sic) and with adequate, solvent sureties conditioned that such person will pay any reasonable attorney's fee and all court costs, and interest, that may be adjudged against him finally by any Court of competent jurisdiction in the event such claimant recovers judgment on such

claim in the amount for which such claim is filed: Provided, the deposit of such cash and the execution and filing of such bond shall not operate to discharge such lien until the expiration of five (5) days after the deposit of such cash and the filing of such bond, during which time the lien claimant may apply to such Clerk to have the surety on such bond increased, and if upon such investigation the bond proves to be insufficient the Clerk shall immediately require such additional surety thereon as may be necessary to make such bond solvent, and the lien shall not be discharged until any additional surety ordered shall have been given and approved. In any suit on such claim the sureties on such bond may be made parties defendant and judgment may be rendered in such action on the bond for whatever amount the Court may decree for a reasonable attorney's fee, costs of suit and interest, but in the event the lien claimant does not recover judgment finally for the full amount of the cash deposited no liability shall exist upon said bond and no judgment shall be rendered thereon for any amount, and the balance of such cash deposit over and above the amount of the claim filed shall be returned by such Clerk to the person depositing same. Appeals may be taken by any party to the action in the same manner and to the same extent as in other civil actions.

EMERGENCY.

Sec. 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this Act shall take effect and be in full force from and after its passage and approval.

Approved April 4, 1919.

PIPE LINES.

NATURAL GAS—TRANSPORTATION—EMINENT DOMAIN.

OIL—TRANSPORTATION—EMINENT DOMAIN.

PUBLIC UTILITIES—CORPORATION COMMISSION.

NATURAL GAS—TRANSPORTATION—EMINENT DOMAIN.

LAWS 1907-8, P. 586.

DECEMBER 21, 1907.

REVISED STATUTES 1910, SECS. 4290-4300.

CHAPTER 67.

ARTICLE I.

AN ACT regulating the laying, constructing, and maintaining and operation of gas pipe lines for the transportation of natural gas within the State of Oklahoma, defining the modes of procedure for the exercise of the right of eminent domain for such purposes. Providing for the inspection and supervision of the laying of such pipe lines and limiting the gas pressure therein, and providing penalties for the violation thereof.

Be it enacted, etc.:

Sec. 1. Any firm, co-partnership, association, or combination of individuals may become a body corporate under the laws of this state for the purpose of producing, transmitting, or transporting natural gas to points within this state by complying with the general corporation laws of the state of Oklahoma, and and with this Act.

Sec. 2. No corporation organized for the purpose of, or engaged in the transportation or transmission of natural gas within this state shall be granted a charter or right of eminent domain, or right to use the highways of this state unless it shall be expressly stipulated in such charter that it shall only transport or transmit natural gas through its pipe lines to points within this state; that it shall not connect with, transport to, or deliver natural gas to individuals, associations, co-partnerships, companies or corporations engaged in transporting or furnishing natural gas to points, places or persons outside of this state.

Sec. 3. Foreign corporations formed for the purpose of, or engaged in the business of transporting or transmitting natural gas by means of pipe lines, shall never be licensed or permitted to conduct such business within this state.

Sec. 4. No association, combination, co-partnership or corporation shall have or exercise the right of eminent domain within this state for the purpose of constructing, or maintaining a gas pipe line or lines within this state, or shall be permitted to take private or public property for their use within this state, unless expressly granted such power in accordance with this Act.

Sec. 5. The laying, constructing, building and maintaining a gas pipe line or lines for the transportation or transmission of natural gas along, over, under, across or through the highways, roads, bridges, streets, or alleys in this state, or of any county, city, municipal corporation or any other private or public premises within this state is hereby declared an additional burden upon said highway, bridge, road, street or alley, and any other private, or public premises may only be done when the right is granted by express charter from the state and shall not be constructed, maintained, or operated until all damages to adjacent owners are ascertained and paid as provided by law.

Sec. 6. All pipe lines for the transportation or transmission of natural gas in this state shall be laid under the direction and inspection of proper persons skilled in such business to be designated by the chief mining inspector for such duty, and the expenses of such inspection and supervision shall be borne and paid for by the parties laying and constructing such pipe lines for the transportation or transmission of natural gas.

Sec. 7. No pipe line for the transportation or transmission of natural gas shall be subjected to a greater pressure than three hundred pounds to the square inch, except for the purpose of testing such lines, and gas pumps shall not be used on any gas pipe line for the transportation or transmission of natural gas or used on or in any gas well within this state.

Sec. 8. Any corporation granted the right under the provisions of this Act to exercise the right of eminent domain, or use the highways of this state to construct or maintain a gas pipe line or lines for the transportation or transmission of natural gas to points within this State, which shall transport or transmit any natural gas to a point outside of, or beyond this state, or shall connect with or attempt to connect with or threaten to connect with any gas pipe line furnishing, transporting, or transmitting gas to a point outside of, or beyond this state, shall by each or all of said acts forfeit all right granted it or them by the charter from this state, and said forfeiture shall extend back to the time of the commission of said act or said acts in violation of this Act; and such act or acts shall of themselves work a forfeiture of any and all rights of any and every kind and character which may be or may have been granted by the state for the transportation or transmission of natural gas within this state, and all the property of said corporation and all the property at any time belonging to said corporation, at any time used in the construction, maintaining or operation of said gas pipe line or lines shall, in due course of law, be forfeited to and be taken into the possession of the state through its proper officer

and in said action there shall be a right to the state of the appointment of a receiver, either before or after the judgment, to be exercised at the option of the state, and the officer taking possession of said property shall immediately disconnect said pipe line or lines at a proper point in this state from any pipe line or lines going out of, or beyond the state. And said property shall be sold as directed by the court having jurisdiction of said proceedings, and the proceeds of said sale shall be applied, first to the payment of the cost of such proceeding, and the remainder, if any, paid into the school fund of the state, and said charter under which said act or acts were committed shall be revoked, and no charter for the transportation or transmission of natural gas shall ever be granted to any corporation having among its stockholders any person who was one of the stockholders of said corporation whose charter has or may have been forfeited as aforesaid and if any such charter shall have been granted, and thereafter a person shall become a stockholder thereof who was one of the stockholders of the corporation whose charter has been or may have been forfeited, as herein provided, the charter of said corporation, one of whose stockholders is as last named, shall therefore be forfeited and revoked. Provided, that any person who may be denied the right to become a stockholder as above prescribed may be granted the right to become such stockholder by the corporation commission, when such person shows to such commission that he was not a party to the former violation of this act.

Sec. 9. No pipe lines for the transportation or transmission of natural gas shall be laid upon private or public property when the purpose of such line is to transport or transmit gas for sale to the public until the same is properly inspected as provided in this act; and before any gas pipe line company shall furnish or sell gas to the public, it shall secure from the inspector a certificate showing that said line is laid and constructed in accordance with this Act, and under the inspection of the proper officer, provided, that nothing in this Act shall be construed to prevent persons drilling for oil and gas from laying surface lines to transport or transmit gas to wells which are being drilled within this state and further provided, that factories in this state may transport or transmit gas through pipe lines for their own use for factories located wholly within this state, upon securing the right of way from the state over or along the highways and from property owners to their lands.

Sec. 10. That no person, firm, or association or corporation shall ever be permitted to transmit or transport natural gas by pipe lines in this state or in this state construct or operate a pipe line for the transmission of natural gas, except such persons, firms, associations, or corporations be incorporated as in this Act provided, except as in section 9 of this Act, and provided further that all persons, firms, corporations, associations and institutions now doing the business of transporting or transmission natural gas in this state and otherwise complying with this Act are hereby permitted to incorporate under the provisions of this Act within ten days after the passage and approval of the same.

Sec. 11. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 12. An existing emergency is hereby declared by the legislature for the preservation of the public peace, health, and safety of the state.

Sec. 13. This act shall take effect from and after its passage and approval as provided by law.

Approved December 21, 1907.

LAWS 1909, P. 431.

MARCH 27, 1909.

REVISED STATUTES, 1910, SECTIONS 4301, 4302, 4303.

CHAPTER XXVI.

ARTICLE II.

AN ACT to regulate the use and preservation of oil and gas and providing penalties for the violation thereof, providing for an inspector, his duties, compensation and appropriation therefor and declaring an emergency.

Be it enacted, etc.:

* * * * *

NOTE: Sections 1 to 9 inclusive are under the title Natural Gas.

Sec. 10. Before any gas pipe line corporation shall acquire any right of way, or exercise right of eminent domain within this state, or construct any pipe lines for the transportation of gas, it shall file in the office of Corporation Commission, a plat showing in detail the points in this state, between, and the route along which its trunk line is proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves, and connections of all kinds on said trunk lines; and upon the demand of the corporation commission they shall file a plat showing in detail all the lines owned or operated by them, with full information as to their capacity and size, location and capacity of their pumping station, gate valves, check valves and connections of all kinds in existence.

Sec. 11. All domestic gas pipe line corporations in this state are hereby authorized to build and operate and for that purpose to acquire, whether by purchase or the exercise of eminent domain, sites for the erection of pumping stations in this state wherever the same may be necessary, due consideration being had for the size, capacity, pressure, facilities and powers of all other gas pipe line corporations and gas consumers and gas producers, in the same gas district which may be affected by the use of said pumps.

Sec. 12. Every domestic gas pipe line corporation in this state is hereby given authority to build, construct and maintain gas pipe lines, over, under, across or through all highways bridges, streets or alleys in this state, or any public place therein under the supervision of the inspector of oil and gas wells and pipe lines as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid, subject to the control of the local municipalities as to how the business of distribution in that municipality shall be conducted, and subject to responsibility as otherwise provided by law. Provided, however, that whenever any gas pipe line crosses the land or premises of any one outside of a municipality, said corporation shall upon request of the owner of said premises connect said premises with a pipe line and furnish gas to said consumer at the same rate as charged in the nearest city or town.

Sec. 13. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 14. For the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this act shall be in force and effect from and after its passage and approval.

Approved March 27, 1909.

OIL—TRANSPORTATION—EMINENT DOMAIN.

LAWS 1907-8, P. 261.

MAY 20, 1908.

REVISED STATUTES, 1910, SECTIONS 3186, 3189.

CHAPTER 20.

AN ACT amending section 28, of Article 9, of Chapter 17, of the Statute of Oklahoma, 1893, and regulating the method of procedure in the condemnation of private property for both public and private use.

Be it enacted, etc.:

* * * * *

Sec. 2. Any oil pipe line company, organized under the laws of this State, shall have power to exercise the right of eminent domain in like manner as railroad companies, for the purpose of securing rights of way and sites for pumping stations, storage tanks or depots.

* * * * *

Sec. 5. Any private person, firm or corporation shall have power to exercise the right of eminent domain in like manner as railroad companies for private ways of necessity or for agricultural, mining and sanitary purposes.

* * * * *

Approved May 20, 1908.

NOTE: Section 1029, Section 28 of Article 9, Chapter 17, Statutes of 1893, applies to railroad companies only and is not given.

LAWS 1909, P. 425.

MARCH 27, 1909.

REVISED STATUTES, 1912, SECTIONS 4309-4312.

CHAPTER XXVI.

ARTICLE I.

AN ACT to regulate all corporations, associations, and persons engaged, in this state, in the business of carrying crude petroleum, or its products, through pipe lines; to regulate operators of oil wells and refineries of crude petroleum and its products, regulating the purchasing of mineral oil by pipe lines, providing punishments for violations thereof, and declaring an emergency.

Be it enacted, etc.:

* * * * *

NOTE: Sections 6 to 8 are given here. Sections 1 to 5 and sections 9 to 13 inclusive are under the title, Pipe Lines.

Sec. 6. Before any corporation, joint stock company, limited co-partnership, partnership or other person, shall have, possess, enjoy or exercise the right of eminent domain, right-of-way, right to locate, maintain, or operate pipe lines, fixtures or equipment thereunto belonging, or used in connection therewith, as authorized by the provisions of this act, or shall have, possess, enjoy or exercise any right (the word "Right" in this connection being used in its most comprehensive legal sense) conferred by this act, every such corporation, joint stock company, limited co-partnership, partnership or other person, shall file in the office of the said Corporation Commission a proper and explicit authorized acceptance of the provisions of this act and the constitution of this state, and in cases of pipe lines a plat showing in detail the points within this state between which, and the route along which the trunk line or trunk lines are proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves and connections and appliances of all kinds used, or to be used, on said trunk line or lines; and upon demand of the Corporation Commission the proper party or parties, as required

by said Commission, shall promptly file a plat showing in detail all the lines owned and operated by them respectively, with full and explicit information as to their capacity, size and location, and the capacity of their pumping stations, gate valves, check valves and connections of all kinds, respectively required or used in the operation thereof.

Sec. 7. Every domestic pipe line company in this state is hereby given authority to build, construct, lay and maintain oil pipe lines over, under, across, or through all highways, bridges, streets or alleys in this state or any public place therein under the supervision of the inspector of oil and gas wells and pipe lines as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid, subject to the control of the local municipalities, as to how the business of distribution in that municipality shall be conducted, and subject to responsibility as otherwise provided by law for any negligent injury thereby caused.

All persons, natural or artificial, except foreign corporations, shall have the right of eminent domain, and any right or privilege hereby conferred, when necessary to make effective the purposes of this act and the rights thereby conferred. Foreign corporations organized under the laws of any other state, or the United States, and doing or proposing to do business in this state, and which shall have become a body corporate pursuant to or in accordance with the laws of this state, and which, as hereby provided, shall have registered its acceptance of the terms hereof, shall receive all the benefits provided by this act.

Sec. 8. Upon a sworn statement of the necessities which would justify a judicial continuance, the Corporation Commission is authorized to extend the time for the filing of the said plats, not, however, to exceed 60 days.

* * * * *

PUBLIC UTILITIES—CORPORATION COMMISSION.

LAWS 1913, P. 150.

MARCH 25, 1913.

CHAPTER 93.

AN ACT to extend the jurisdiction of the Corporation Commission over the rates, charges, services and practice of water, heat, light and power companies, and to give said commission general supervision over such utilities, and declaring an emergency.

Be it enacted, etc.:

DEFINITION OF TERMS—"PUBLIC UTILITIES."

Sec. 1. The term "public utility," as used in this act, shall be taken to mean and include every corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, except cities, towns, or other bodies politic, that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, or may supply any commodity to be furnished to the public.

(a) For the conveyance of gas by pipe line.

(b) For the production, transmission, delivery, or furnishing of heat or light with gas. * * *

* * * * *

The term "Commission" shall be taken to mean Corporation Commission of Oklahoma.

COMMISSION'S JURISDICTION OVER PUBLIC UTILITIES.

Sec. 2. The Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitatorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act, and with the Constitution and laws of this state, and with the orders of the Commission.

IMPLIED POWERS OF COMMISSION—CONTEMPT.

Sec. 3. In addition to the powers enumerated, specified, mentioned or indicated in this act, the commission shall have all additional implied and incidental powers which may be proper and necessary to carry out, perform and execute all powers herein enumerated, specified, mentioned, or indicated, and to punish as for contempt such corporation, association, company or individual, their trustees, lessees, receivers, successors and assigns, for the disobedience of its orders in the manner provided for punishment of transportation and transmission companies, by the Constitution and Laws of this State.

RECORDS OF PUBLIC UTILITY BUSINESS.

Sec. 4. In case of the owner or operator of any public utility is engaged in carrying on any other business in connection with the operation of such public utility, the commission may require the cost of the operation and gross revenues of such joint business to be kept in such form and manner as may be prescribed by the Commission so that the cost of the operation and gross revenues of the public utility may be ascertained.

ORDERS OF COMMISSION—SCOPE—RIGHT OF APPEAL.

Sec. 5. The Commission may, from time to time, adopt or promulgate, such orders, rules, regulations or requirements, relative to investigations, inspections, tests, audits, and valuations of the plants and properties relative to inspection and tests of meters as in its judgment may be necessary and proper; provided, that under the provisions of this act, any public utility, corporation, association, company, individual, their trustees, lessees or receivers, successors, or assigns, may appeal from any order or finding or judgment of the Corporation Commission as provided by law in cases tried and heard before said Commission of transportation and transmission companies.

EMERGENCY.

Sec. 6. For the preservation of the public health, peace and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in force from and after its passage and approval;

Approved, March 25, 1913.

TAXATION.

GROSS REVENUE—OIL AND GAS PRODUCTION—PUBLIC SERVICE CORPORATIONS.

LICENSE TAX—MINING COMPANIES.

SCHEDULE—OIL AND GAS PROPERTIES—PURCHASERS OF OIL AND GAS.

GROSS REVENUE—OIL AND GAS PRODUCTION—PUBLIC SERVICE CORPORATIONS.

LAWS 1910, P. 65.

MARCH 10, 1910.

CHAPTER 44.

AN ACT providing for the levy and collection of a gross revenue tax from public service corporations in this state and from persons, firms, corporations or associations engaged in the mining or production of coal, asphalt or ores bearing lead, zinc, jack, gold, silver or copper, or of petroleum or other mineral oil or of natural gas; and declaring an emergency.

Be it enacted, etc.:

DEFINITION OF TERMS USED.

Sec. 1. As used in this act, the term "Transportation Company" shall exclude railroad companies operating steam railroads in this state, but shall include any freight car company, car corporations or company, trustee, or person engaged in the business of renting, leasing or hiring private cars for the transportation of persons or property and shall include any person, firm, association, company or corporation engaged in the express business. * * *

The term "Public Service Corporation Companies," as used in this act, shall include all transportation and transmission companies, all gas * * * companies * * * and all persons, firms, corporations or associations authorized to exercise the right of eminent domain or to use or occupy any right of way, street, alley or public highway, whether along, over or under the same, in a manner not permitted to the general public.

The term "person" as used in this act, shall include individuals, partnerships, associations and corporations in the singular as well as in the plural number.

BASIS FOR COMPUTATION OF TAX.

Sec. 2. Every corporation hereinafter named shall pay the state a gross revenue tax for the fiscal year ending June thirtieth, 1909, and for each fiscal year thereafter, which shall be in addition to the taxes levied and collected upon an ad valorem basis upon the property and assets of such corporation equal to the per centum of its gross receipts hereinafter provided, if such public service corporation operate wholly within the state, and if such public service corporation operates partly within and partly without the state, it shall pay tax equal to such proportion of said per centum of its gross receipts as the portion of its business done within the state bears to the whole of its business; provided that if satisfactory evidence is submitted to the Corporation Commission, at any time prior to the time fixed by this act for the payment of said tax, that any other proportion more fairly represents the proportion which the gross receipts of any such public service corporation for any year within this state bears to its total gross receipts, it shall be the duty of said Corporation Commission to fix, by an order entered of record, such other proportion of its total gross receipts as the proportion upon which said tax shall be computed; and a

copy of such order so made and entered of record, as aforesaid shall be certified to the State Auditor.

PUBLIC SERVICE CORPORATION—TAX RATES—ASCERTAINMENT OF GROSS RECEIPTS.

Sec. 3. Such gross revenue tax so required to be paid shall be equal to the percentage of the gross receipts of each public service corporation as follows: * * * pipe lines, two per centum; * * * gas, heat and power companies, one-half of one per centum. * * * For the purpose of determining the amount of such tax, the managing officers or agents of each of such public service corporation shall, on or before the first day of October, 1908, and annually thereafter, report to the State Auditor under oath, the gross receipts of such public service corporation, from every source whatsoever, for the fiscal year ending the thirtieth day of June, and shall immediately pay to the State Treasurer the gross revenue tax herein imposed, calculated as hereinbefore provided; provided, however, that the State Auditor shall have power to require such public service corporation to furnish any additional information by him deemed to be necessary for the purpose of computing the amount of said tax, and to examine the books, records, and files of such corporation; and shall have power to examine witnesses and if any witness shall fail or refuse to appear at the summons or request of the State Auditor, said State Auditor shall certify the facts and the name of the witness so failing and refusing to appear, to the district court, of this state, having jurisdiction of the party, and said court shall thereupon issue a summons to the said party to appear and give such evidence as may be required and upon a failure so to do the offending party shall be punished as provided by law in cases of contempt and whenever it shall appear to the State Auditor that any public service corporation has willfully made an untrue or incorrect return of its gross receipts as hereinbefore required, he shall ascertain the correct amount of such gross receipts and shall compute said tax.

FAILURE TO REPORT RECEIPTS—DUTIES OF AUDITOR.

Sec. 4. Whenever any public service corporation in this state shall fail to file the report of its gross receipts within the time provided for in this act, the State Auditor shall forthwith cause an examination to be made into the books and records of such corporation and shall ascertain the amount of its gross receipts in accordance with the provisions of this act, and shall compute such gross revenue tax, and shall at the same time tax against said delinquent corporation all costs and expenses incurred on making such examination.

DELINQUENT TAX—PENALTY.

Sec. 5. The tax provided for in section three of this act shall become delinquent after the first day of October of the fiscal year for which it is levied and shall, as a penalty for such delinquency, bear interest from said date at the rate of eighteen per centum per annum.

NOTE: Section 6 was amended by the Act of July 5, 1913, (Laws 1913, 630, p. 639), and is as follows:

ASCERTAINMENT OF PRODUCTION.

Sec. 1. That section 6 of chapter 44 of the Session Laws of 1910 be amended to read as follows:

"Section 6. For the purpose of estimating the value of any property rights attached to or inherent in the right to mineral in this state after the same is

segregated from the ore in place and in lieu of any other method of taxing the same (but mineral if on hand for more than thirty days at tax-rendering period shall be taxed ad valorem), every person, firm, association or corporation engaged in the mining or production, within this state, of coal or asphalt, or of ores bearing lead, zinc, jack, gold, silver or copper [or petroleum or other mineral oil or of natural gas] shall, within thirty days after the expiration of each quarter-annual period, expiring respectively on the last day of June, September, December and March of each year, file with the State Auditor a statement under oath, on forms prescribed by him, showing the location of each mine or oil or gas well, operated by such person, firm, association or corporation, during the last preceding quarter-annual period, the kind of mineral, oil or gas; the gross amount thereof produced; the actual cash value thereof and such other information pertaining thereto as the State Auditor may require, and shall, at the same time, pay to the State Treasurer a gross production tax equal to one-half of one per centum of the gross value of coal produced therefrom; one-half of one per centum of the gross value of ores produced therefrom bearing lead, zinc, jack, gold, silver, or copper or asphalt, [three-fourths of one per centum of the gross value of the production of petroleum or other mineral oil, or natural gas;] provided, however, that the State Auditor shall have power to require every such person, firm, association or corporation engaged in mining or the production of minerals, to furnish any additional information by him seemed to be necessary for the purpose of computing the amount of said tax, and to examine the books, records and files of such person, firm, association or corporation; and shall have power to examine witnesses, and if any witness shall fail or refuse to appear at the summons or request of the State Auditor, said State Auditor shall certify the facts and the name of the witness so failing and refusing to appear to the district court of this state having jurisdiction of the party, and said court shall thereupon issue a summons to the said party to appear and give such evidence as may be required, and upon a failure so to do the offending party shall be punished as provided by law in cases of contempt. For the purpose of ascertaining whether or not any return so made is the true and correct return of the gross receipts of such person, firm, association or corporation, engaged in mining or the production of minerals, and whenever it shall appear to the State Auditor that any such person, firm, association or corporation, engaged in mining or the production of minerals, has unlawfully made an untrue or incorrect return of its gross production or value, as hereinbefore required, he shall ascertain the correct amount of either and compute the said tax: Provided, That any such person, firm, association or corporation shall, at the time of making its report to the State Auditor, set out specifically the amount of the royalty required to be paid for the benefit of the Indian citizen, Indian tribe or landlord, and in computing said tax shall pay on the actual cash value of the entire gross production, less the royalty paid by such person, firm or corporation.

NOTE: Here follow the remaining sections of the original act of 1910, p. 65.

DELINQUENCY OF MINING COMPANY—PENALTY.

Sec. 7. The tax provided for in the preceding section shall become delinquent after the date fixed for each quarter annual report to be filed in the office of the State Auditor and from such time shall, as a penalty for such delinquency, bear interest at the rate of eighteen per centum per annum and shall be collected in the manner hereinafter provided. If any person, firm, association, or corporation shall fail to make the report of the gross production of any mine or

oil or gas well, upon which tax herein provided for within the time prescribed by law for such report it shall be the duty of the State Auditor to examine the books, records and files of such person, firm, association or corporation to ascertain the amount and value of such production to compute the tax thereon as provided herein, and shall add thereto the cost of such examination, together with any penalties accrued thereon.

REBATE OF TAX ON CRUDE PRODUCTS REFINED.

Sec. 8. When satisfactory evidence under oath is produced to the State Auditor that any person, firm, association, or corporation engaged in mining or producing within this state asphalt, lead, zinc, jack, gold, silver, copper, or petroleum or other mineral oil have in this state manufactured or refined any portion of such products in this state and thereafter on the finished products have paid ad valorem taxes, the State Auditor is hereby authorized to rebate and pay to such person, firm, association or corporation the just proportion of taxes paid by said person, firm, association or corporation, on his or its crude productions under section six of this act, which shall have been found to have been turned into finished product as aforesaid, and cause such sum, if any, so rebated, to be repaid by warrant drawn on the State Treasurer.

NOTE: Section 9 of this Act was amended by the Act of July 5, 1913, Laws 1913, p. 639, and is as follows:

COLLECTION OF DELINQUENT TAXES.

Sec. 2. That section 9 of chapter 44 of the session laws of 1910 be amended to read as follows:

"Section 9. When any tax provided for in this act shall become delinquent, the State Auditor shall issue his warrant, directed to the sheriff of any county wherein the same, or any part thereof, accrued, and the sheriff to whom said warrant shall be directed shall proceed to levy upon the property, assets and effects of the person, firm, association or corporation against whom said tax is assessed, and to sell the same and to make return thereof as upon execution. Such tax and penalty for delinquency shall constitute and remain a lien upon the property, assets and effects of such person, firm, association or corporation until paid, and may be recovered at the suit of the State in any court of competent jurisdiction of the county where any such property, assets and effects are located."

NOTE: Here follow the remaining sections of the original act of 1910.

FALSE REPORTS—PERJURY.

Sec. 10. Any person who shall make any false oath to any report required by the provisions of this act shall be deemed guilty of perjury.

DISPOSITION OF TAXES.

Sec. 11. All taxes levied and collected under the provisions of this act shall be paid into the State Treasury and applied to the payment of the ordinary expenses of the state government.

LICENSE TAX—MINING COMPANIES.

LICENSE TAX ON CERTAIN CORPORATIONS.

LAWS 1910, P. 99.

MARCH 15, 1910.

REVISED STATUTES, 1910, SECS. 7538-7549.

CHAPTER 57.

AN ACT providing for a license tax upon foreign and domestic corporations.

Be it enacted, etc.:

STATE LICENSE REQUIRED—CERTAIN COMPANIES EXCEPTED.

Sec. 1. No corporation heretofore or hereafter incorporated under the laws of this state, or of any other state, shall do or attempt to do business by virtue of its charter or certificate of incorporation in this state without a state license therefor; Provided, however, that the provisions of this act shall not apply to railroad companies, car companies, electric railroad companies, telephone and telegraph companies, heat, light and power companies, water-works, and water power companies, insurance companies, banking or trust companies, building and loan associations; or to any company or corporation not organized for profit.

LICENSE FROM CORPORATION COMMISSION—ANNUAL FEE—PROVISO.

Sec. 2. It shall be the duty of every corporation incorporated under the laws of this state, and of every foreign corporation now doing business, or which shall hereafter engage in business in this state, to procure annually from the Corporation Commission a license authorizing the transaction of such business in this state.

Each domestic corporation shall pay a license fee of fifty cents for each one thousand dollars of its authorized capital stock or less, and each foreign corporation shall pay a license fee of one dollar for each one thousand dollars of its capital stock employed in its business done in this state; provided, that the license fees provided for in this act shall not be required on that portion of its capital stock employed by any corporation in any business upon which a production, income or gross receipts tax is required to be paid under the laws of this state; but any corporation claiming exemption from the payment of the license fees on any portion of its authorized capital shall, in addition to all other statements required by the provisions of this act, file a statement under oath of its president, secretary or other managing officer showing in detail the different kinds of business in which it is engaged, and the portion of its capital employed in that part of its business upon which a production income or gross receipts tax is required to be paid under the laws of this state.

FEE PAYABLE WHEN AND WHERE.

Sec. 3. The license fees required by this act shall be paid to the State Treasurer on or before the first day of August of each year, and shall be applied to the payment of the ordinary expenses of the state government and no license shall be issued by the Corporation Commission until each such corporation shall file with the Corporation Commission a receipt from the State Treasurer, showing the payment of the fee herein provided for: Provided, however, the incorporating fees now required by law shall be in lieu of the license fees required by this act for the year in which such incorporating fees are paid.

ANNUAL SWORN STATEMENT BY DOMESTIC CORPORATIONS.

Sec. 4. Every domestic corporation subject to the provisions of this act shall, during the month of July of each year, file in the office of the Corporation Commission a statement under oath of its president, secretary or managing officer, showing the list of its stockholders, officers and directors with the residence and post office address of and the amount of stock held by each as the same existed on the thirtieth day of June next preceding.

STATEMENT BY FOREIGN CORPORATION.

Sec. 5. Every foreign corporation, subject to the provisions of this act shall, on or before the thirty-first day of July, of each year, file with the Corporation Commission, a statement, under oath of its president, secretary or managing officer or managing agent of such corporation in this state, in such form as the Corporation Commission may prescribe, showing the total amount of its authorized capital stock, the number of shares into which it is divided, the name and location of the office or offices of the company and the name of its designated agent for service of process, residing at the capital of this state; a list of its stockholders, officers and directors, giving the residence and post office address of and the amount of stock held by each as the same existed on the thirtieth day of June next preceding, the value of property owned and used by the company in the State of Oklahoma and where situate, and the value of property owned and used outside of the State of Oklahoma; the proportion of the capital stock of the company which is represented by property owned and used and by business transacted in this state.

SUCH STATEMENT NOT CONCLUSIVE.

Sec. 6. The return made by foreign corporations doing business in this state shall not be conclusive as to the proportion of their authorized capital represented by business done in this state, but whenever it shall be made to appear to the Corporation Commission that some other proportion than that shown by the statement returned by such foreign corporation more correctly represents the true proportion of the capital stock represented in this state, they shall, after giving ten days' notice to the designated agent of such foreign corporation in this state, for service of process, proceed to determine such true proportion, and such foreign corporation shall thereupon, subject to the penalties provided in this act, pay a license fee upon the proportion of its capital stock represented by business done in the state as so ascertained and determined by the Corporation Commission.

PERIOD OF LICENSE.

Sec. 7. The license tax hereby provided for shall authorize the corporation complying with the provisions of this act to transact its business during the year, or for any fractional part of such year in which such license tax or fee is paid.

The term "year" as used in this act shall mean from and including July first to and including June thirtieth next thereafter.

FAILURE TO PAY FEES—PENALTIES.

Sec. 8. Every domestic corporation subject to the provisions of this act, who shall fail to file the annual statement and to pay the annual fees required by the provisions of this act for sixty days after the time provided

therefor, shall forfeit its charter; and every foreign corporation failing to file its statement and pay the annual fees within the time required by the provisions of this act shall forfeit its license and right to do business in this state, but the state shall have and retain a lien upon the assets of every kind and character in this state of every such delinquent corporation, and may enforce such lien in any court of competent jurisdiction in any county of the state where the property of such delinquent corporation may be found.

SAME—TRUSTEES FOR DELINQUENT COMPANIES—ACTIONS.

Sec. 9. In all cases of forfeiture under the provisions of this act, the directors or managers in office of any domestic corporation whose charter may be so forfeited, or of any foreign corporation whose right to do business in this state may be so forfeited, are deemed to be trustees of the corporation and all the stockholders and members of the corporation whose power or right to do business is forfeited, and as such trustees shall have full power to settle the affairs of the corporation and to maintain or defend any such corporation, or to take such legal proceedings as may be necessary to finally settle the affairs of said corporations, and such directors or managers as such trustees may be sued in any of the courts of this state by any person having a claim against any such corporation: Provided, however, that no action pending against any such corporations shall abate, by reason of its forfeiture as provided in this act, but may be prosecuted to final judgment and the same may be enforced by execution with the same force and effect and in like manner as though no forfeiture had occurred. And, provided further, that where any judgment has been rendered against any corporation prior to forfeiture of its charter under the provisions of this act, execution may be issued thereon and the property in the hands of its trustees may be levied upon, seized and sold to satisfy the same with like force and effect as though such forfeiture had not occurred.

FURTHER PENALTY FOR DELINQUENCY.

Sec. 10. Any corporation who shall have failed to file the sworn statement and pay the annual license fees required by the provisions of this act on or before the first day of August of each year shall, in addition to the other penalties herein prescribed, be liable to a penalty of one hundred dollars for each day it shall so fail or refuse to file said statement and pay said fees, which shall be a lien upon all of the property and assets of such corporation located in this state, and may be recovered at the suit of the state in any court of competent jurisdiction of the county where any property or assets of such delinquent is located.

FALSE STATEMENT—PERJURY.

Sec. 11. Any person who shall make any false oath to any statement or return required to be made under the provisions of this act shall be guilty of perjury.

FILING SAME—SUBORNATION OF PERJURY.

Sec. 12. Any person who shall file with or present to the Corporation Commission any statement under oath required to be made by the provisions of this act, knowing the same to be false shall be guilty of subornation of perjury.

Approved March 15, 1910.

SCHEDULE—OIL AND GAS PROPERTIES—PURCHASERS OF OIL AND GAS.

LAWS 1909, 572, P. 586.

MARCH 10, 1909.

REVISED STATUTES, 1910, SECS. 7332-7335.

CHAPTER XXXVIII.

TAXATION.

AN ACT to provide for raising and collecting revenue for the fiscal year ending June 30, 1910, and for each fiscal year thereafter, and to codify and revise the laws of the state relating to revenue, and declaring an emergency.

Be it enacted, etc.:

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ARTICLE III.

* * * * *

Sec. 13. Every person, firm, company, or association, their lessees, trustees or receivers, owning, operating or controlling any oil or gas well or any property of any kind used by or for the purpose of producing, pumping, distributing or storing crude oil or natural gas as herein defined, except public service corporations, shall on the first day of March of each year, or within thirty days thereafter, make out and deliver to the township assessor of the municipal township in which said well is situated, a statement in writing verified by the oath of the officer, agent or employee of any such person, firm, company, corporation or association, their lessees, trustees, or receivers having knowledge of the facts set forth in separate entries, the following, to wit:

First. The name or number of each well, and a description of the land upon which same is situated, including number of land.

Second. The name or names of the owner or owners thereof.

Third. A statement of all piping, casing, tubing, and give the number of feet of each, and shall include the piping of owner of the lease together with a separate account of any such property belonging to any other person, firm, company, corporation, or association, trustees, or receivers located on such lands. Said statement shall include all pipe buried and on the grounds and pipe along the section lines of said lease.

Fourth. A statement of the number and sizes of all boilers and boiler houses, the number of gas and steam engines, and pumps, including water, oil and gas pumps, giving their sizes and conditions.

Fifth. The number of feet of sucker rods and all other rods used on lease. The number of derricks, the material in and about the tool-house, the number of teams and wagons. The number and size of all wooden and steel tanks, and the number thereof and the name of owner thereof, and the amount of oil in all wooden, steel or earthen tanks.

Sixth. The amount of lumber used in incasing tanks and for other purposes, and any and all buildings used in connection with the production of any such oil or gas. Said statement shall include any other improvements and machinery, such as drilling rigs, sand lines, cables, and all appurtenances used in connection with oil or gas wells, said statement shall include the value of each article named, at what it would bring at a fair voluntary sale.

Sec. 14. It shall be the duty of the township assessor of any township in which tanks or tank forms (farms) for storage of crude petroleum is located to assess as other property is assessed, to the proper owners at the fair cash value, as hereinbefore defined, any and all such tanks and the contents thereof, together with all boilers, tools, pipes, pumps, fixtures and appurtenances of

every kind used by or for the purpose of producing, pumping, distributing or storing any crude petroleum or natural gas; and for the purpose of enabling him to make a correct assessment thereof, he shall go upon and have access to every plant, pump station, receiving station, tank farm (farm) or office where information regarding any such properties may be obtained.

Sec. 15. Every person, company, corporation or association failing to substantially comply with the provisions of this act shall be thereby liable to a double assessment as a penalty for such failure.

Sec. 16. Any person making affidavit as required by this act who shall willfully give a false or fraudulent list or schedule or statement shall be deemed guilty of perjury and upon conviction thereof, shall be punished therefor by confinement in the penitentiary for a period not exceeding five years.

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ARTICLE IV.

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Sec. 6. Each pipe line company doing business in this state shall return to the State Auditor sworn Statement or schedule as follows:

First. Of the right of way and main line, giving the entire length of main line in this and other states, showing the size of pipe and showing the proportion in each city, school district, township and county, and the total in this state.

Second. The total length of each lateral or branch line and the size of the pipe, together with the name of each city, school district, township and county in which such lateral and branch lines are located.

Third. A complete list giving location as to city, township, school district or county of all pumping stations, storage depots, machine shops, or other buildings together with all machinery, tools, tanks and material.

Fourth. A statement or schedule showing the amount of its authorized capital stock and the number of shares into which the same is divided; the amount of capital stock paid up; the market value of such stock, or if it has no market value, then the actual value thereof, and the total amount of outstanding bonded indebtedness.

Fifth. A correct detailed statement of all other personal property, including oil in storage and cash on hand, and giving the location thereof.

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Approved March 10, 1909.

LAWS 1913, 630, P. 639.

JULY 5, 1913.

CHAPTER 240.

AN ACT to provide a direct and indirect system of taxation.

Be it enacted. etc.:

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ARTICLE 2.

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NOTE: Sections 1 and 2 are inserted under the sub-title, Gross revenue—Oil and gas production—Public Service Corporations.

REPORTS TO AUDITOR OF PURCHASES FROM CRUDE OIL AND GAS PRODUCERS.

Sec. 3. It shall be the duty of every purchaser of petroleum or other mineral oils, or of natural gas (except the consumers of such gas), from the producers within this state within thirty days after the expiration of the quarter annual

period expiring respectively on the last day of June, September, December and March of each year to file with the State Auditor a statement under oath, on a form prescribed by him, showing the name and address of each producer from whom such products were purchased during the quarter-annual period last expiring, together with the price therefor and such other information as the State Auditor may require; provided, that the State Auditor may require such purchaser, hereinbefore named, to keep for his inspection separate books, records and files in this state.

Any purchaser of such crude products named in this section who shall fail to file a sworn statement, or refuse to comply with the provisions of this act within the time and manner prescribed herein shall be liable to a penalty of one hundred (\$100.00) dollars for each day it shall so fail or refuse to file said statement or comply with said provisions, which will be a lien upon all the property and assets of such purchaser located in this state, and may be recovered at a suit of the state in any court of competent jurisdiction of the county where any property or assets of such delinquent is located.

REGULATIONS OF CORPORATION COMMISSION.

CONSERVATION OF NATURAL GAS AND OIL—RULES.

ISSUED JULY 16, 1917, ORDER NO. 1299.

IN RE PROPOSED ORDER No. 159 FOR THE PROMULGATION OF ADDITIONAL AND SUPPLEMENTAL RULES FOR THE CONSERVATION OF OIL AND NATURAL GAS.

ORDER.

The Corporation Commission having held hearing and investigation pursuant to Proposed Order No. 159 and the Oil and Natural Gas Conservation Laws of the State and in accordance with the provisions thereof, having made its findings of fact, and being fully advised in the premises, it is therefore considered, ordered and adjudged that the following rules, regulations, and requirements be and are hereby prescribed:

Rule 1. WASTE PROHIBITED. Natural gas and crude oil or petroleum shall not be produced in the State of Oklahoma in such manner and under such conditions as to constitute waste. (Sec. 1, Ch. 197, S. L. 1915; rule 1, order No. 957.)

Rule 2. WASTE DEFINED. The term "waste," as above used in addition to its ordinary meaning, shall include (a) escape of natural gas in commercial quantities into the open air; (b) the intentional drowning with water of a gas stratum capable of producing gas in commercial quantities; (c) underground waste; (d) the permitting of any natural gas well to wastefully burn; and (e) the wasteful utilization of such gas. (Sec. 2, Ch. 197, S. L. 1915; rule 2, order No. 937.)

Rule 3. GAS TO BE CONFINED—STRATA TO BE PROTECTED. Whenever natural gas in commercial quantities or a gas bearing stratum known to contain natural gas in such quantities is encountered in any well drilled for oil or gas in this State, such gas shall be confined to its original stratum until such time as the same can be produced and utilized without waste, and all such strata shall be adequately protected from infiltrating waters. (Sec. 3, Ch. 197, S. L. 1915; rule 3, order No. 937.)

Rule 4. COMMERCIAL QUANTITIES DEFINED. Any gas stratum showing a well defined gas sand and producing gas shall be considered capable of

producing gas in commercial quantities and any gas coming from such a stratum or sand shall be considered a commercial quantity, and such stratum or sand shall be protected the same as if it produced gas in excess of two million cubic feet per day of twenty-four hours. (Sec. 3, Ch. 197, S. L. 1915; rule 4, order No. 937.)

Rule 5. GAS TO BE TAKEN RATABLY. Whenever the full production from any common source of supply of natural gas in this State is in excess of the market demands, then any person, firm or corporation having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by any such person, firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well, so as to prevent any such person, firm or corporation securing any unfair proportion of the gas therefrom: provided, that the Corporation Commission may by proper order, permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable. (Sec. 4, Ch. 197, S. L. 1915; Rule No. 5, Order No. 937.)

Rule 6. COMMON PURCHASER RULE. Every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this State, shall be a common purchaser thereof, and shall purchase all of the natural gas which may be offered for sale, and which may reasonably be reached by its trunk lines, or gathering lines, without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Corporation Commission after due notice and hearing, but if any such person, firm or corporation shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably. (Sec. 5, Ch. 197, S. L. 1915; Rule 6, Order No. 937.)

Rule 7. COMMON PURCHASER — DISCRIMINATION PREVENTED. No common purchaser shall discriminate between like grades and pressures of natural gas, or in favor of its own production or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of pro-rating the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion such production bears to the total production available for marketing. (Sec. 5, Ch. 197, S. L. 1915; Rule 7, Order No. 937.)

Rule 8. GAS TO BE METERED. All gas produced from the deposits of this State when sold shall be measured by meter and the Corporation Commission shall, upon notice and hearing, relieve any common purchaser from purchasing gas of an inferior quality or grade, and the Commission shall from time to time make such regulations for delivery, metering and equitable purchasing and taking as conditions may necessitate. (Sec. 5, Ch. 197, S. L. 1915; Rule 8, Order No. 937.)

Rule 9. COMMISSION SHALL REGULATE THE TAKING OF NATURAL GAS. The Corporation Commission shall as occasion arises, prescribe rules and regulations for the determination of the natural flow of any well or wells in this State, and shall regulate the taking of natural gas from any and all common sources of supply within the State so as to prevent waste, protect the interests of the public and of all those having a right to produce therefrom, and shall prevent unreasonable discrimination in favor of any one common source of supply as against another. (Sec. 4, Ch. 197, S. L. 1915; Rule 9, Order No. 937.)

Rule 10. EMINENT DOMAIN—ACCEPTANCE OF LAW TO BE FILED WITH COMMISSION. Before any person, firm or corporation, shall have,

possess, enjoy or exercise the right of eminent domain, right of way, right to locate, maintain, construct or operate pipe lines, fixtures, or equipment belonging thereto or used in connection therewith, for the carrying or transportation of natural gas, whether for hire or otherwise, or shall have the right to engage in the business of purchasing, piping, or transporting natural gas, as a public service corporation, or otherwise, such person, firm or corporation, shall file in the office of the Corporation Commission a proper and explicit authorized acceptance of the provisions of the law. (Sec. 9, Ch. 197, S. L. 1915; Rule 10, Order No. 937.)

Rule 11. DUTIES OF CONSERVATION OFFICERS IN REFERENCE TO RULE 10. All conservation agents of the Corporation Commission are directed to inquire into the matter of the performance of and compliance with the foregoing rule (No. 10), and to prevent the transportation of gas by any person, firm or corporation, found not to have complied with said rule. (Sec. 8, Ch. 197, S. L. 1915; Rule 11, Order No. 937.)

Rule 12. APPROVED METHODS OF PREVENTING WASTE TO BE USED. All operators, contractors, or drillers, pipe line companies, gas distributing companies or individuals, drilling for or producing crude oil or natural gas, or piping oil or gas for any purpose, shall use every possible precaution in accordance with the most approved methods, to stop and prevent waste of oil and gas, or both, in drilling and producing operations, storage, or in piping or distributing, and shall not wastefully utilize oil or gas, or allow same to leak or escape from natural reservoirs, wells, tanks, containers, or pipes. (See also Rule 28 infra.)

Rule 13. NOTICE OF INTENTION TO DRILL, DEEPEN OR PLUG. Notice shall be given to the Corporation Commission of the intention to drill, deepen or plug any well or wells and of the exact location of each and every such well. In case of drilling, notice should be given at least five days prior to the commencement of drilling operations.

Notice of intention to plug must be accompanied by a complete log of the well, on forms prescribed by the Corporation Commission.

Blanks for notification and reports can be obtained on application to the Corporation Commission or its conservation agents.

Rule 14. PLUGGING DRY AND ABANDONED WELLS.

(a) **Must Be Plugged Under Supervision of Conservation Agent.**

All abandoned or dry wells shall immediately be plugged under the supervision of an oil and gas conservation agent of the Corporation Commission.

(b) **Manner of Plugging.**

All dry or abandoned wells must be plugged by confining all oil, gas or water in the strata in which they occur by the use of mud-laden fluid, and in addition to mud-laden fluid, cement and plugs may be used.

These wells must first be thoroughly cleaned out to the bottom of the hole and before the casing is removed from the hole, the hole must be filled from the bottom to the top with mud-laden fluid of maximum density and which shall weigh at least 25 per cent more than an equal volume of water; unless the Commission directs that some other method shall be used.

(c) **Notice of Intention of Plug.**

Before plugging dry and abandoned wells, notice shall be given to the Corporation Commission or its conservation agent in the field and to all available adjoining lease and property owners, and representatives of such lease and property owners, may, in addition to the oil and gas conservation agent of the Commission, be present to witness the plugging of these wells if they so desire, but plugging shall not be delayed because of failure or inability to deliver notices to adjoining lease and property owners.

Rule 15. LOG AND PLUGGING RECORD TO BE FILED WITH COMMISSION. The owner or operator shall, upon the completion of any well, file with the Corporation Commission a complete record or log of the same, duly signed and sworn to, upon blanks to be furnished by the Commission upon application; and upon plugging any well for any cause whatsoever, a complete record of the plugging thereof shall be made out and duly verified on blanks to be furnished by the Commission. (Rule 25, Order No. 937.)

Rule 16. PROPER ANCHORAGE TO BE LAID. Before any well is begun in any field where it is not known that high pressure does not exist, proper anchorage shall be laid, so that the control casing-head may be used on the inner string of casing at all times, and this type of casing-head shall be kept in constant use unless it is known from previous experience and operations on wells adjacent to the one being drilled that high pressure does not exist or will not be encountered therein. (Rule 15, Order No. 937.)

Rule 17. EQUIPMENT FOR CONSERVING NATURAL GAS SHALL BE PROVIDED BEFORE "DRILLING IN." In all proven or well defined gas fields, or where it can reasonably be expected that gas in commercial quantities will be encountered, adequate preparation shall be made for the conservation of gas before "drilling in" any well; and the gas sands shall not be penetrated until equipment (including mud pumps, lubricators, etc.) for "mudding in" all gas strata, or sands, shall have been provided.

Rule 18. SEPARATE SLUSH PIT TO BE PROVIDED. Before commencing to drill a well, a separate slush pit or sump hole shall be constructed by the owner, operator or contractor for the reception of all pumpings from clay or soft shale formations in order to have the same on hand for the making of mud-laden fluid. (Rule 14, Order No. 937.)

NOTE. In order to avoid freezing casing, operators are cautioned not to allow sand or lime to be mixed with clay or soft shale pumpings.

Rule 19. WELLS NOT TO BE PERMITTED TO PRODUCE OIL AND GAS FROM DIFFERENT STRATA. No well shall be permitted to produce both oil and gas from different strata unless it be in such manner as to prevent waste of any character to either product. Therefore, if a strata should be encountered bearing gas and the owner, operator, or contractor should go deeper in search for other gas or oil bearing sands, the stratum first penetrated and likewise each and every sand in turn, shall be closed separately, and if it is not wanted for immediate use, it shall be securely shut in so as to prevent waste, either open or underground. (Rule 16, Order No. 937.)

Rule 20. STRATA TO BE SEALED OFF. No well shall be drilled through or below any oil, gas or water stratum without sealing off such stratum or the contents thereof, after passing through the sand, either by the mud-laden fluid process or by casing and packers, regardless of volume or thickness of sand. (Rule 17, Order No. 937.)

Rule 21. MUD-LADEN FLUID TO BE APPLIED. No gas sand or stratum upon being penetrated shall be drilled or left open more than three days without the application of mud-laden fluid to prevent the escape of gas while further drilling in or through such sand or stratum. (Sec. 3, Ch. 197, S. L. 1915; Rule 18, Order No. 937.)

Rule 22. DENSITY OF MUD FLUID WHERE WELL CONTAINING WATER IS DRILLED INTO OIL OR GAS PRODUCING STRATA. No operator shall drill a well into an oil or gas producing sand with water from a higher formation in the hole, or with a sufficient head of water introduced into the hole to prevent gas blowing to the surface. The well shall either be allowed to blow until the sand has been drilled in or it shall be drilled in under a head of fluid consisting of not less than 25 per cent mud; but in no case shall

gas be allowed to blow for a longer period than three days. Mud fluid used for protecting oil and gas bearing sands in upper formations while oil or gas is being produced from deeper formations shall have a density of not less than 25 per cent mud and should contain not less than 28 per cent mud.

Rule 23. MUD-LADEN FLUID TO BE APPLIED IN PULLING OR RE-DEEMING CASING. No outside casing from any oil or gas well in an unexhausted oil or gas field shall be pulled without first flooding the well with mud-laden fluid behind the inside string of casing, after unseating the casing, and as casing is withdrawn, well shall be kept full to top with said mud-laden fluid and same shall be left in the hole; and said mud-laden fluid shall be so applied as to effectively seal off all fresh or salt water strata, and all oil or gas strata not being utilized. (Rule 23, Order No. 937.)

Rule 24. MUD-LADEN FLUID—WHEN TO BE APPLIED TO COMPLETED WELLS. When necessary (or in any event when ordered by the Corporation Commission) to seal off any oil, gas or water sand, casing shall be seated in mud-laden fluid; and concerning wells already drilled, the operator shall, upon the order of the Corporation Commission, raise any string or strings of casing and re-seat them in mud-laden fluid when it is thought advisable to do so in order to avoid existing underground waste, pollution or infiltration. (Rule 22, Order No. 937.)

Rule 25. FRESH WATER TO BE PROTECTED. Fresh water, whether above or below the surface, shall be protected from pollution, whether in drilling or plugging. (Rule 14, Order No. 937.)

Rule 26. GAS TO BE SEPARATED FROM OIL. No gas found in the upper part of a level or sand which can be separated from the oil in the lower part of the same sand or in a lower or different sand shall be allowed or used to flow oil to the surface and all gas, so far as it is possible to do so, shall be separated from the oil and securely protected. (Rule 19, Order No. 937.)

Rule 27. SEPARATING DEVICE TO BE INSTALLED UPON ORDER OF COMMISSION. Where oil and gas are found in the same stratum and it is impossible to separate the one from the other, the operator shall, upon being so ordered by the Corporation Commission, install a separating device of approved type, which shall be kept in place and used as long as necessity therefor exists, and after being installed, such device shall not be removed nor the use thereof discontinued without the consent of the Corporation Commission. (Rule 20, Order No. 937.)

Rule 28. GAS WELLS NOT TO PRODUCE FROM DIFFERENT SANDS AT THE SAME TIME THROUGH THE SAME STRING OF CASING. No gas well shall be permitted to produce gas from different levels, sands or strata at the same time through the same string of casing (Sec. 3, Ch. 197, S. L. 1915) and when gas upon being found is not needed for immediate use, the same shall be confined in its original stratum until such time as the same can be produced and utilized without waste (Sec. 3, Ch. 197, S. L. 1915) and in confining gas to its original place, the mud-laden fluid process shall be used unless the character of the formation involved is sufficiently ascertained and understood to know that the casing and packer method with Braden-head attachment can be safely applied and competently used, and in the use of the casing, packing and Braden-head method, separate strings of casing shall be run to each sand and the application of the latter method in preference to the former shall not be made without notice to and consent of the Corporation Commission. (Rule 21, Order No. 937.)

Rule 29. VACUUM PUMPS NOT TO BE INSTALLED EXCEPT UPON APPLICATION TO THIS COMMISSION. The future installation of vacuum pumps or other devices for the purpose of putting a vacuum on any gas or oil

bearing stratum is prohibited, provided that any operator desiring to install such apparatus may, upon notice to adjacent lease owners or operators, apply to the Commission for permission; and in the matter of vacuum pumps heretofore installed, the use of same is authorized unless specifically discontinued by order of the Commission upon notice and hearing. (Rule 22, Order No. 937.)

Rule 30. SHOOTING OF WELLS.

(a) Wells Not to Be Shot Into Salt Water:

No wells shall be so shot as to let in salt water or other foreign substance injurious to the oil or gas sand.

(b) Reports to Be Made to the Corporation Commission:

Reports shall be made to the Corporation Commission on all wells shot, showing the condition of the well before and after shooting, including the size of the shot, sand or sands shot, production before and after shooting, per cent of water in well before and after shooting.

(c) Damaged Wells to Be Abandoned:

In case irreparable injury is done to the well, or to the oil or gas sand or sands by shooting, the well shall immediately be abandoned and plugged as provided by rule No. 14 herein.

Rule 31. GAUGE TO BE TAKEN—REPORTS TO COMMISSION. All oil and gas operators shall between the first and tenth of each calendar month take a gauge of the volume and rock pressure of all wells producing natural gas, and shall forthwith report to the Corporation Commission on gauge blanks furnished by the Commission. (Rule 26, Order No. 937.)

Rule 32. PRODUCTION TO BE RESTRAINED TO 25% OF POTENTIAL CAPACITY. When the gas from any well is being used, the flow of production thereof shall be restrained to 25 per cent of the potential capacity of the same; that is to say in any day (24 hours) the well shall not be permitted to flow or produce more than one-fourth of the potential capacity thereof, as shown by the last monthly gauge. (Rule 29, Order No. 937.)

Rule 33. NOTIFICATION OF FIRES AND BREAKS OR LEAKS IN LINES. All drillers, operators, pipe line companies, and individuals operating oil and gas wells or pipe lines shall immediately notify the Commission by telegraph or telephone and by letter of all fires which occur at oil and gas wells or oil tanks owned, operated, or controlled by them or on their property, and shall immediately report all tanks struck by lightning and any other fires which destroy crude oil or natural gas, and shall immediately report in the manner heretofore described any breaks or leaks in tanks or pipe lines from which oil or gas is escaping. In all reports of fires, breaks, or leaks in pipes, or other accidents of this nature, the location of the well, tank, or line break shall be given, showing location by quarter, section, township, and range.

Rule 34. REPORTS FROM PIPE LINE COMPANIES. The Commission will from time to time require oil and gas pipe line companies to make reports to the Corporation Commission showing wells connected with their lines during any month, the amount of production taken therefrom, names of parties from whom oil and gas are purchased, the amount of oil or gas purchased therefrom; and all oil and gas pipe line companies shall, in addition to the other reports required by the rules of the Corporation Commission, furnish to the Commission duplicates of all reports made to the State Auditor under the oil and gas gross production tax laws. The Commission will, in case of over-production or for any other reason which it deems urgent, require oil or gas pipe line companies to furnish daily reports of the amount of oil or gas purchased or taken from different wells or parties.

Rule 35. PRESCRIBING CONDITIONS UNDER WHICH PIPE LINE COMPANIES MAY CONNECT WITH OIL OR GAS WELLS. Pipe line companies shall not connect with oil or gas wells until the owners or operators thereof shall furnish a certificate from the Corporation Commission that the conservation laws of the State have been complied with; provided, this rule shall not prevent the temporary connection with any well or wells in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of said well to secure certificate showing compliance with the conservation laws of the State.

Rule 36. CONSERVATION LAWS AND RULES OF THE CORPORATION COMMISSION TO BE COMPLIED WITH BEFORE CONNECTING WELLS WITH PIPE LINES. Owners or operators of oil or gas wells shall, before connecting with any oil or gas pipe line, secure from the Corporation Commission a certificate showing compliance with the oil and gas conservation laws of the State and conservation orders of the Corporation Commission; provided that this rule shall not prevent temporary connection with pipe lines in order to take care of production until opportunity shall have been given for securing such certificate; provided, further, that the owners or operators of such wells shall in a known or proven field make application for such certificate in anticipation of production.

Rule 37. DRILLING RECORDS TO BE KEPT AT WELLS. All operators, contractors, or drillers shall keep at each well accurate records of the drilling, re-drilling, or deepening of all wells, showing all formations drilled through, casing used, and other information in connection with drilling and operation of the property and any and all of this information shall be furnished to the Commission upon request, or to any conservation agent of the Commission.

Rule 38. CONSERVATION AGENTS TO HAVE ACCESS TO ALL WELLS AND ALL WELL RECORDS. Conservation agents of the Commission shall have access to all wells and to all well records, and all companies, contractors, or drillers shall permit any conservation agent of the Corporation Commission to come upon any lease or property operated or controlled by them, and to inspect any and all wells and the records of said well or wells, and to have access at all times to any and all wells, and any and all records of said wells.

Provided, that information so obtained by conservation agents shall be considered official information and shall be reported only to the Corporation Commission.

Rule 39. NOTICE TO CONTRACTORS, DRILLERS, AND OTHERS TO OBSERVE RULES. All contractors and drillers carrying on business or doing work in the oil or gas fields of the State, as well as lease-holders, land owners, and operators generally, shall take notice of and are hereby directed to observe and apply the foregoing rules and regulations; and all contractors, drillers, land owners, and operators will be held responsible for infraction of said rules and regulations.

Rule 40. CONSERVATION AGENTS TO CO-OPERATE WITH OIL AND GAS INSPECTORS OF THE DEPARTMENT OF THE INTERIOR. All conservation agents appointed by the Corporation Commission shall co-operate with and invite the co-operation of the oil and gas inspectors of the United States Bureau of Mines of the Department of the Interior.

Rule 41. CONSERVATION AGENTS TO ASSIST IN ENFORCEMENT OF RULES. All conservation agents of the Commission shall assist in the enforcement of these rules and shall immediately notify the Commission upon observance of any infraction thereof.

ADDITIONAL RULES WILL BE PRESCRIBED FROM TIME TO TIME.

The Commission will from time to time prescribe additional rules, regulations, and requirements for the conservation of crude oil, or petroleum, and natural gas.

This Order shall be in full force and effect from and after August 20, 1917.

IN WITNESS WHEREOF, we have hereunto set our hands and caused to be affixed the seal of said commission, this the 16th day of July, 1917.

Corporation Commission.

J. E. LOVE, Chairman.

W. D. HUMPHREY, Commissioner,

CAMPBELL RUSSELL, Commissioner.

(ATTEST) : J. H. HYDE, Secretary.

OREGON.

CONTENTS.

	Page.
Oil and gas corporations-----	265
License tax-----	265
Regulations—Railroad commission-----	268
Taxation-----	268
Oil and gas—Valuation-----	268

OIL AND GAS CORPORATIONS.

LICENSE TAX.

REGULATIONS—RAILROAD COMMISSION.

LICENSE TAX.

LORD'S OREGON LAWS, VOL. II, P. 1408.

TITLE XXVIII.

REVENUE AND TAXATION.

CHAPTER II.

OF LICENSE TAXES ON * * * OIL COMPANIES.

Sec. 3544. * * * Oil Companies to Pay License.

That in addition to the taxes now provided for by law, every * * * oil company, doing business in this state, shall pay to the state of Oregon, a license of three (3) per centum upon the gross earnings of such company in this state, which license shall be paid annually by such company to the treasurer of this state. (Laws 1907, p. 9, sec. 1.)

* * * * *

Sec. 3547. Oil Company Defined.

Any nonresident person or persons and every joint stock company or corporation not having its principal place of business within this state, or not being organized or incorporated under the laws of the state of Oregon, engaged in the business of buying and selling, or buying or selling oil (petroleum in its various products) within the state of Oregon, and any and all persons, companies, and corporations doing business in this state as the representative of any or either of the aforesaid persons or corporations, on commission or otherwise, and any person or persons, joint stock company, or corporation, resident within this state or organized or incorporated under the laws thereof, engaged in the business of buying and selling oil (petroleum in its various products) produced, obtained, or refined by either or any of the aforesaid nonresident persons, companies, or corporations, and whose business done annually in such special line amounts in the gross to twenty-five per centum of the total annual gross receipts of such person, company, or corporation from all lines in which he or it deals, and any person

or persons, joint stock company, or corporation, wherever organized or incorporated, engaged in the business of operating cars for the transportation of such oil in this state on or over any railway line or lines in whole or in part within the state of Oregon, such line or lines not being owned or leased by such person, company, or corporation, shall be deemed an oil company, within the meaning of this act. (Laws 1907, p. 10, sec. 4.)

Sec. 3548. Statements Required.

It shall be the duty of the president, secretary, and treasurer of such * * * oil company, or of such of said officers as reside within this state, or if neither of such officers reside in this state, then of the general manager or agent, or other officer of such company or corporation having general control, management, or supervision of its business in this state, to transmit to the state treasurer, on or before the first day of March of each year, a statement, under oath, of the gross receipts of such company, corporation, or business, from business transacted within this state during the preceding year, ending December 31st, giving in such statement also the following facts:

1. The name of the firm, company, business, or corporation.
2. The nature of the business transacted by such firm, business, company or corporation.
3. The location of its principal office, and under what laws it is organized or incorporated, and whom, if any one, it represents, and if in the twenty-five per cent class above mentioned, then whose wares it handles.
4. The name, post-office address, and place of residence of the proprietor, or the chief officer or managing agent of the business or company in the state of Oregon.
5. The name, post-office address, and place of residence of proprietor—if simply a firm, and if a company or corporation, then of the president, secretary, auditor, and treasurer.
6. A detailed statement of the real estate (if any) owned by the firm or company in the state of Oregon, where situated, and the value thereof as assessed for taxation. (Laws 1907, p. 10, Sec. 5.)

Sec. 3549. Proceedings to Enforce Statement and Payment.

If such * * * oil company, shall fail to make such statement, or to pay such license, for the period of thirty days from and after such statement is required by this act to be made, or after such license is due and payable, as herein provided, the amount thereof, with the addition of ten per centum thereon for such failure, shall be collected of such company, for the use of this state, and the same is hereby declared to be and is made a debt due and owing from such company to the state of Oregon, and the attorney-general of the state, or the district attorney of the proper judicial district, shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same, and, to that end and for the purpose of making this act more effective, the said attorney-general, or district attorney, as the case may be, or both, shall have the same power and authority to call before him or them, officers or agents or representatives of such delinquent company, and other witnesses, for examination bearing upon the receipts of such company, in the same manner that the district attorneys now have with reference to criminal matters; and it is hereby made the duty of the state treasurer within ten days from and after the expiration of the said thirty days' time limit hereinbefore mentioned, to give notice of such delinquency to the attorney-general of the state. (Laws 1907, p. 11, Sec. 6.)

Sec. 3550. Penalty for Failure.

If any officer of any company or corporation, or other person, mentioned in the preceding sections of this act shall fail, refuse, or neglect to make and file

such annual statement of the gross receipts in this state, of the firm, company, or corporation, of which he is such proprietor or officer or agent, for thirty days after the first day of March in each year, on conviction thereof he shall be punished by a fine of not less than \$500, no more than \$1,000, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment in the discretion of the court; and the district attorney of the proper judicial district shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to enforce this penalty. (Laws 1907, p. 11, Sec. 7.)

LAWS 1913, P. 111.

FEBRUARY 21, 1913.

CHAPTER 73.

AN ACT to amend Section 6713 of Lord's Oregon Laws, as amended by Chapter 24, General Laws of Oregon for year 1911.

Be it enacted, etc.:

Sec. 1. That Section 6713 of Lord's Oregon Laws be and the same is hereby amended to read as follows:

Sec. 6713. Every corporation formed or organized under and pursuant to the laws of the State of Oregon, whether now existing or hereafter created, for the purpose of engaging in the business of mining for any of the precious metals, coal, or prospecting or operating for oil, or operating an oil well, and whose business it shall be to engage in said business only, shall, during the month of June each year, and on or before the first day of July of each year furnish to the Secretary of State, upon blanks to be supplied by him for that purpose, a correct statement sworn to by one of its officers before some officer authorized to administer oaths, setting forth in detail the name of the corporation, the location of its principal office, the name of the president, secretary, and treasurer thereof, with the postoffice address of each, the date of the annual election of officers and directors of such corporation, the amount of the authorized capital stock, the number of shares and the par value of each share, the amount of capital stock subscribed, the amount of capital stock issued, and the amount of capital stock paid up, the amount of its properties in this State and where the same are located; also stating in general terms the amount of work done thereon and improvements made thereon since the time of filing the last annual report, together with a statement of the amount and value of the annual output or products of the mines, coal, or wells of such corporation, between the first day of January and the thirty-first day of December of the year preceding, and that said corporation is not engaged in or transacting any other business except that of locating, prospecting, developing or operating mines for precious metals, coal, or wells for oil, and any such mining or oil corporation whose annual output or products shall not exceed in value the sum of \$1,000, shall, if such above provided statement is filed in the office of the Secretary of State during the month of June, and on or before the first day of July of each year, thereupon be exempt from the payment of the annual license fee as now provided by law; but in lieu thereof shall pay an annual license fee of \$10; provided, that no such corporation shall be required to make such statement if it shall file the statement and pay the annual license fee required by "An Act to provide for the licensing of domestic corporations, and foreign corporations, joint-stock companies and associations," etc., approved February 16, 1903, or hereafter required by law.

REGULATIONS—RAILROAD COMMISSION.

LORD'S OREGON LAWS, VOL. III, P. 2465.

TITLE XLVI.

CHAPTER I.

OF THE RAILROAD COMMISSION, ITS POWERS AND DUTIES.

Sec. 6875. Commission Created (Number of Members, Term of Office, Appointment and Confirmation—Election—Vacancies.)

A railroad commission is hereby created, to be composed of three commissioners. * * *

* * * * *

Sec. 6884. Rules—All Hearings to be Open.

The Commission shall have power to adopt and publish rules or orders to govern its proceedings and to amend the same, and to regulate the mode and manner of all investigations and hearings of railroads and other parties before it, and all hearings shall be open to the public. Any person may appear before the commission, and be heard, or may appear by attorney. (Laws 1907, p. 70, Sec. 9.)

* * * * *

Sec. 6886. What Embraced in Term "Railroad"—What Transportation Governed by Act. * * *

The provisions of this act * * * shall apply to all * * * oil companies, tank lines companies. * * * (Laws 1907, p. 70, Sec. 11.)

NOTE: This Act contains very complete provisions for the regulation of railroads and these, according to this section, apply to oil companies and tank line companies.

TAXATION.

OIL AND GAS—VALUATION.

LAWS 1919, P. 626.

MARCH 4, 1919.

CHAPTER 356.

AN ACT authorizing the assessor of each county within the state of Oregon to assess minerals, gas, coal, oil and other similar interests in real estate owned separately and apart from the ownership of the surface of such real estate and the method of determining the valuation of said mineral reservation.

Be it enacted, etc.:

Sec. 1. That whenever any mineral, gas, coal, oil or other similar interests in real estate are owned separately and apart from and independently of the rights and interests owned in the surface of such real estate, such minerals, gas, coal, oil or other similar interests may be assessed and taxed separately from such surface rights and interests in said real estate and may be sold for taxes in the same manner and with the same effect as other interests in real estate are sold for taxes.

Sec. 2. That any person, firm or corporation that (who) owns any mineral, gas, coal, oil or other similar interests independently of the ownership of the surface rights of the real property shall, before the first day of March each year file with the county assessor his sworn statement of the value of said reservation of mineral, gas, coal, oil or other mineral products. The assessor shall assess the said reservation at a valuation of not less than ten per cent of the total value of the entire surface rights and interest in said real estate.

PENNSYLVANIA.

CONTENTS.

	Page.
Natural gas	269
Protection of natural gas	269
Natural gas companies	270
Incorporation and regulation	270
Oil	276
Transportation and storage of oil	276
Regulating transportation, storage and sales of oil	277
Waste of oil prevented—Receiver	281
Petroleum certificates	282
Oil and gas wells	282
Plugging oil wells	282
Plugging gas wells	283
Protection of wells, tanks, and pipes—Malicious injury	283
Extending provisions—Amendment	283
Actions against joint owners for labor	284
Counties authorized to drill	285
Prevention of fires	285
Pipe lines	287
Incorporation—Pipe-line companies	287
Taxation	290
Pipe lines—Corporations	290

NATURAL GAS.

PROTECTION OF NATURAL GAS.

LAWS 1895, P. 319.

JUNE 26, 1895.

AN ACT to protect the property of natural gas companies and other furnishers of gas, and the interest of consumers of gas.

Sec. 1. Be it enacted, etc.:

That whoever, except the authorized agent or employe for the purpose of the owner, manufacturer or operator thereof, maliciously opens, closes or in any manner or to any extent adjusts or interferes with any valve, regulator, gauge, gate, disc, curbcock, stopcock, meter or other regulating, operating or measuring device or appliance in or attached to the wells, tanks, conduit, pipe-lines, mains, service pipes, house-pipes, display-pipes or other distributing pipes of any gas company, manufacturer or furnisher of gas, with intent to cause the escape of any gas or to injure or destroy any of such property, or maliciously enlarges or alters any mixer, furnished or approved by any gas company, manufacturer or furnisher of gas, to or for a consumer of its, his or their gas, or maliciously removes from its connection any mixer so furnished or approved of, or puts on any mixer without express permission first obtained, or consumes for fuel or light the gas of any gas company, manufacturer or furnisher of gas, or taps, severs or opens any main or pipe used or intended for the transmission of gas, or connects with such main or pipe any other main or pipe, shall be deemed

guilty of a misdemeanor and upon conviction thereof be sentenced to pay a fine not exceeding three hundred dollars, or undergo an imprisonment not exceeding three months, or both, or either, at the discretion of the court. The word "gas" in this act shall include and mean natural and artificial gas used for heating and illuminating purposes.

NATURAL GAS COMPANIES.

INCORPORATION AND REGULATION.

LAWS 1885, P. 29.

MAY 29, 1885.

AN ACT to provide for the incorporation and regulation of natural gas companies.

WHEREAS, By the discovery of natural gas and its production in such quantities as to render it a prime necessity for use as a fuel and otherwise in the development of trade in this Commonwealth, it has become essential that the creation of corporations for the production, storage, conveyance and distribution of said gas shall be authorized and provided for by legislation,

Now, therefore,

Sec. 1. Be it enacted, etc.:

That corporations may be formed in the manner mentioned herein by the voluntary association of five or more persons, or as otherwise provided herein, for the purpose of producing, dealing in, transporting, storing and supplying natural gas to such persons, corporations or associations, within convenient connecting distance of its line of pipe, as may desire to use the same, upon such terms and under such reasonable regulations as the gas company shall establish, and when so formed, each of them, by virtue of its existence as such, shall have the following powers:

First. To have succession by its corporate name for the period limited by its charter, and when no period is limited thereby, perpetually, subject to the power of the General Assembly, under the Constitution of the Commonwealth.

Second. To maintain and defend judicial proceedings.

Third. To make and use a common seal, and alter the same at pleasure, and have a capital stock, not exceeding five million dollars, divided into shares such as each company may determine.

Fourth. To produce, mine, own, deal in, transport, store and supply natural gas, for either light, heat, or both, or other purposes, and have all the rights and privileges necessary or convenient therefor.

Fifth. To hold, purchase, maintain, lease, mortgage, sell, and transfer such real and personal property, including pipes, tubing, tanks, office and such other machinery, devices or arrangements, as the purposes of the corporation requires, and the right also to enter upon, take and occupy such lands, easements and other property as may be required for the purpose of laying its pipes for transporting and distributing gas.

Sixth. To appoint and remove such subordinate officers and agents as the business of the corporation requires and to allow them suitable compensation.

Seventh. To make by-laws, not inconsistent with the law, for the election and regulation of its directors and officers, the management of its property, the regulation of its affairs and the subscription, collection and transfer of its stock.

Eighth. To enter into any obligation necessary to the transaction of its ordinary affairs.

SEC. 2. The charter of such intended corporation must be subscribed by five or more persons, three of whom, at least, shall be citizens of this Commonwealth, who shall certify in writing to the governor:

First. The name of the corporation.

Second. The place or places where natural gas is intended to be mined for and produced or received, the place or places where it is to be supplied to consumers, the general route of its pipe line or lines and branches, the location of its general office.

Third. The term for which said corporation is to exist, which may be limited as to time, or be perpetual.

Fourth. The names and residences of the subscribers, and the number of shares subscribed by each.

Fifth. The number of its directors, and the names and residences of those chosen directors for the first year.

Sixth. The amount of its capital stock, and the number and par value of shares into which divided.

Notice of the intention to apply for any such charter shall be inserted in two newspapers of general circulation, printed in each of the counties named in the charter of said corporation, for three weeks, setting forth briefly the character and object of the corporation to be formed, and the intention to make application therefor, and the places where its business in its various branches is to be conducted. The certificate to the governor shall state that ten per centum of the capital stock named therein has been paid in cash to the treasurer of the intended corporation, and the name and residence of the treasurer shall be therein given; said certificate shall be acknowledged by at least three of the subscribers thereto, before the recorder of deeds of the county in which its principal office is situate, and the subscribers shall also make and subscribe an oath or affirmation before him, to be endorsed on the certificate, and the statements contained therein are true; the certificate so endorsed, accompanied with proof of publication of notice as heretofore provided, shall then be produced to the governor of the commonwealth, who shall examine the same, and, if he finds it to be in proper form within the purpose named herein, shall approve thereof and endorse his approval thereon and direct letters patent to issue in the usual form incorporating the subscribers and their associates and successors into a body politic and corporate, in deed and in law, by the name chosen; and the certificate shall be recorded in the office of the secretary of the Commonwealth, in a book to be by him kept for that purpose, and he shall forthwith furnish to the auditor general an abstract therefrom showing the name, location, amount of capital stock, and name and address of the treasurer of the corporation. The original certificate with all of its endorsements shall then be recorded in the office for recording deeds in and for each of the counties named therein, and from thenceforth, the subscribers thereto, and their associates and successors, shall be a corporation for the purposes and upon the terms named in said certificate: Provided, That neither this act nor any other shall be so construed as to confer, authorize or give color to any claim of exclusive right in any corporation, howsoever formed, dealing in any way or for any purpose in natural gas.

Sec. 3. It shall be lawful for all corporations named in this act to borrow money to secure any indebtedness created by them, by issuing bonds with or without coupons attached thereto, and to secure the same by a mortgage or mortgages, for the use of the bondholders, upon their property real and personal and their franchises to an amount not exceeding one-half of the capital stock of the corporation paid in, and at a rate of interest not exceeding six per centum.

Sec. 4. The capital stock of indebtedness, of any corporation created under this act, may be increased or its capital stock may be reduced from time to time by consent of the person or bodies corporate holding the larger amount in value of the stock of such company, but such increase of capital stock or

indebtedness shall only be made for labor done, or money or property actually received. But every corporation, created under the provisions of this act, may purchase such real and personal estate, mineral rights, patent rights and other property as is necessary for the purpose of its organization and business, and issue stock therefor, and the stock so issued shall be declared and taken to be full paid stock and not liable to any further calls or assessments, and in the charter and certificates and statements to be made by the subscribers and officers of the corporation, such stock shall not be stated or certified as having been issued for cash paid into the company, but it shall be stated or certified in this respect according to the fact.

Sec. 5. When and as often as any such corporation shall be desirous of enlarging or altering its territory of production or of supply, for consumption, both or either of them, and its pipe line or lines and branches, it shall, thereupon, make, under its common seal and deposit in the office of the secretary of the Commonwealth, a certificate setting forth the particulars of such enlargement and alteration, and shall record in the office of the recorder of deeds of the county or counties to which the enlargement or alteration applies, a copy of the certificate, and thereupon and thereafter the rights, powers and duties of the corporation shall be as to the extension of its business and lines as if the same had been originally provided for and embodied in its charter.

Sec. 6. That any corporation formed hereunder, desirous of increasing its capital stock or indebtedness as provided by this act, shall, by a resolution of its board of directors, call a meeting of its stockholders therefor, which meeting shall be held at its chief office or place of business in this Commonwealth, and notice of the time, place, and object of the meeting shall be published, once a week for sixty days prior to such meeting, in at least one newspaper published in the county, city, or borough wherein such office or place of business is situate.

Sec. 7. At the meeting thus called an election of the stockholders of the corporation shall be taken for or against the proposed increase, which shall be conducted by three judges, who shall be stockholders of the corporation appointed by the board of directors to hold the election, and if one or more of the judges be absent the judge or judges present shall appoint a judge or judges who shall act in the place of the judge or judges absent, and who shall respectively take and subscribe an oath or affirmation before an officer authorized by law to administer oaths well and truly and according to law to conduct the election to the best of their ability, and the judges shall decide upon the qualification of voters, and when the election is closed count the number of shares voted for and against such increase, and declare whether the persons or bodies corporate, holding the larger amount of the stock of the corporation, have consented to the increase or refused to consent thereto and shall make out duplicate returns of the election stating the number of shares of stock that voted for the increase, and the number that voted against the same, and subscribe and deliver the same to one of the chief officers of the company.

Sec. 8. Each ballot shall have endorsed thereon the number of shares thereby represented, and be signed by the holder thereof or by the person holding a proxy therefor, but no share or shares transferred within sixty days shall entitle to vote at such election or meeting, nor shall any proxy be received or entitle the holder to vote unless the same shall bear date and have been executed within three months next preceding the election or meeting; and it shall be the duty of the corporation to furnish the judges at such meeting with a statement of the amount of its capital stock, with the names of persons or bodies corporate holding the same, and the number of shares by each respectively held, which

statement shall be signed by one of the chief officers of the corporation with an affidavit thereto annexed, that the same is true and correct to the best of his knowledge and belief.

Sec. 9. It shall be the duty of such corporation, if consent is given to such increase, to file in the office of the secretary of the Commonwealth within thirty days after the election or meeting, one of the copies of the return of such election, with a copy of the resolution and notice calling same thereto annexed; and upon the increase of the capital stock or indebtedness of the corporation, made pursuant thereto, it shall be the duty of the president or treasurer of such corporation, within thirty days thereafter, to make a return to the secretary of the Commonwealth, under oath, of the amount of the increase and terms of the same—that is to say, the terms on which the additional stock is issued; and in case of neglect or omission so to do the corporation shall be subject to a penalty of five thousand dollars, which penalty shall be collected on an account settled by the auditor general and State treasurer as accounts for taxes due the Commonwealth are settled and collected; and the secretary of the Commonwealth shall cause such returns to be recorded in a book to be kept for that purpose, and furnish a certified copy of the same to the auditor general and the corporation shall have the right to recover the same from the officer neglecting or omitting to file the return hereinbefore required.

AMENDATORY ACT—AMENDING SECTION 10.

LAWS 1897, P. 50.

MAY 11, 1897.

AN ACT to amend section 10 of an act, entitled "An act to provide for the incorporation and regulation of natural gas companies," approved May 29, 1885, limiting and fixing the number and compensation of the viewers therein provided for.

Sec. 1. Be it enacted, etc.:

That section ten of the act, entitled "An act for the incorporation and regulation of natural gas companies," approved May 29, 1885, which reads as follows:

Sec. 10. (Here follows sec. 10 in full of the original act.) Shall be and the same is hereby amended to read as follows:

Sec. 10. The transportation and supply of natural gas for public consumption is hereby declared to be a public use, and it shall be the duty of corporations, organized or provided for under this act, to furnish to consumers along their lines and within their respective districts natural gas for heat or light or other purposes as the corporation may determine. Any and all corporations that is or are now or shall hereafter be engaged in such business, shall have the right of eminent domain for the laying of pipe lines for the transportation and distribution of natural gas, the right, however, shall not be exercised as to any burying ground or dwelling, passenger railroad station house or any shop or manufactory in which steam or fire is necessarily used for manufacturing or repairing purposes, but shall include the right to appropriate land upon or under which to lay said lines and locate pipes upon and over, under and across, any lands, rivers, streams, bridges, roads, streets, lanes, alleys or other public highways, or other pipe lines, or to cross railroads or canals: Provided, In case the pipe lines cross any railroad operated by steam, or canal, the same shall be located under or above such railroad or canal, and in such manner as the railroad or canal company may reasonably direct: And provided further, That any company laying a pipe line under the provisions hereof shall be liable for all damages occasioned by reason of the negligence of such gas company: And provided further, That no company authorized by this act shall have the right to

occupy longitudinally the right of way, road bed, or bridge of any railroad company: And provided, If any pipe line laid under the provisions of this act, or laid upon or over lands cleared and used for agricultural purposes, the same shall be buried at least twenty-four inches below the surface; and if any line of pipe shall be laid over or through any waste or woodland, which shall be changed to farming land, then it shall be the duty of the corporation to immediately bury the said pipe to the depth of at least twenty-four inches as aforesaid. Prior to any appropriation, the corporation shall attempt to agree with the owner as to the damage properly payable for an easement in his or her property, if such owner can be found and is sui juris, failing to agree, the corporation shall tender to the property owner a bond with sufficient sureties to secure him or her in the payment of damages; if the owner refuse to accept said bond or can not be found or is not sui juris, the same shall then be presented to the court of common pleas of the proper county, after reasonable notice to the property owner by advertisement or otherwise, to be approved by it. Upon the approval of the bond and its being filed the right of the corporation to enter upon the enjoyment of its easement shall be complete. Upon petition of either the property owner or the corporation, thereafter, the court of common pleas shall appoint three disinterested freeholders of the county to serve as viewers to assess the damages proper to be paid to the property owner, for the easement appropriated by the company, and shall fix a time for their meeting of which notice shall be given to both parties; and as compensation for their services each of said viewers shall receive two dollars and fifty cents for each day in which he may actually have been engaged in such duty, and mileage at the rate of ten cents for each circular mile traveled by him in going from his residence to and from such view. Either party may appeal from the report of the viewers within twenty days after the filing thereof to the court of common pleas and have a jury trial as in ordinary cases, and writ of error to the supreme court.

NOTE: Remaining sections of original act.

Sec. 11. The right to enter upon any public lane, street, alley or highway for the purpose of laying down pipes, altering, inspecting, and repairing the same, shall be exercised in such way as to do as little damage as possible to such highways, and to impair as little as possible the free use thereof, subject to such regulations as the councils of any city may by ordinance adopt.

Sec. 12. In all cases where any dispute shall arise between such corporations and the authorities of any borough, city, township or county, through, over or upon whose highways, or between it and any landowner or corporation, through, over, or upon whose property or easement pipes are to be laid, as to the manner of laying the pipes and the character thereof, with respect to safety and public convenience, it shall be the duty of the court of common pleas of the proper county upon the petition of either party to the dispute, upon a hearing to be had to define by its decree what precautions, if any, shall be taken in the laying of pipes, and, by injunction, to restrain their being laid in any other way than as decreed. It shall be the duty of the court to have the hearing and make its decree with all convenient speed and promptness. Either party shall have a right to appeal therefrom as in cases of equity to the supreme court, but the appeal shall not be a supersedeas of the decree, and proceedings shall be had in like manner upon like petition when and as often as any dispute arises as to pipes already laid to define the duty of such corporations as to their relaying, repair, amendment, or improvement.

Sec. 13. Companies incorporated under this act and not referred to or included in the next succeeding section hereof shall not enter upon or lay down their pipes or conduits on any street or highway of any borough or city of this

Commonwealth without the assent of the councils of such borough or city by ordinance, duly passed and approved.

Sec. 14. Any association of persons or corporations heretofore engaged in the business of transporting or dealing in natural gas for any purpose, whether under color of a charter or letters patent of the Commonwealth, and whether authorized by said charter or letters patent so to do or not, and any corporation by its charter authorized to furnish heat from gas, upon accepting the provisions of this act by writing under seal of the company, filed in the office of the secretary of the Commonwealth, and filing therewith its letters patent or charter (which shall be a surrender and acceptance thereof) shall thereupon be a body corporate hereunder, and be entitled to and possessed of all the privileges, immunities, franchises and powers conferred by this act upon corporations to be created under the same, and all the property, rights, easements and privileges belonging to said associations and corporations theretofore acquired by gift, grant, conveyance, municipal ordinance, or assignment, upon such acceptance as aforesaid, shall be and hereby is ratified, approved, confirmed and assured unto such acceptors and corporations with like effect, and to all intents and purposes as if the same had been originally acquired by and under the authority of this act; and such company or corporation shall thereafter be governed solely by the provisions of this act. And the governor shall forthwith issue to the said acceptors letters patent under this act, under the same name as the company bore which surrendered its charter or letters patent: Provided, That this section shall only apply to associations or corporations actually engaged in the transportation and supply of natural gas, or the supply of heat from the same, at and prior to the passage of this act: And provided further, That such corporations surrendering their charters and accepting the provisions of this act shall, with such acceptance and as a part thereof, state in writing the place or places where it is presently intended to mine for and produce or receive natural gas, and the place or places to which it is to be presently supplied, the general route of its pipe lines, the term for which the corporation is to exist, the amount of its capital stock, and the number and par value of its shares.

Sec. 15. Any association within the provisions of section fourteen shall, upon filing its written acceptance as therein provided become and be entitled to a credit from the Commonwealth to the amount of any bonus previously paid.

Sec. 16. That this act shall not be so construed as to permit any corporation, accepting its provisions under and by virtue of section fourteen hereof, to enter into any city or borough without the assent of councils, except where the corporation, so accepting under section fourteen, had, to some extent prior to the passage of this act, begun supplying natural gas within such city or borough or had laid pipes for such purposes therein.

Sec. 17. Any two or more companies existing under this act may, with the consent of a majority of the stockholders in value in each, consolidate with each other into one corporation under such name as may be agreed upon filing a certificate to such effect in the office of the secretary of the Commonwealth, and, thereupon, such consolidated company shall have, possess and enjoy all the rights, powers, privileges, property, immunities and franchises which were of each said companies: Provided, That before any such consolidation shall take place the reasons therefor shall be submitted in writing to the governor of the Commonwealth, and the same shall be approved by him before the consolidation shall be consummated. Notice of the proposed consolidation, and the submission of the reasons therefor to the governor, shall be given by publication in a newspaper of general circulation printed in the county where the general offices of the companies proposing to consolidate are situate. No consolidation shall be

valid unless made in the manner prescribed herein, and consolidations, except as herein provided, are hereby declared to be void, and any such shall work a forfeiture of the franchises of the offending companies as well as the stock and property in the same of the stockholders consenting to such attempted consolidation to the Commonwealth.

Sec. 18. If any person shall wilfully and maliciously break, injure and destroy any of the pipes, conduits or other works or machinery of any natural gas company, or shall wilfully and maliciously interfere with said pipes, conduits or works so as to interrupt the business of any such company, such person or persons shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding two hundred dollars, or suffer an imprisonment not exceeding one year, or both or either in the discretion of the court.

Sec. 19. Corporations authorized and formed under this act shall pay into the State treasury for the use of the Commonwealth, such taxes as now are or hereafter may be imposed upon corporations, under the general corporation or revenue laws of this Commonwealth.

NOTE.—Secs. 20, 21, and 22 of this act are under the title, Oil and Gas Wells.

Sec. 23. All acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby repealed.

NOTE.—Oil companies are authorized to purchase and hold stock of natural gas companies.

OIL.

TRANSPORTATION AND STORAGE OF OIL.

REGULATING TRANSPORTATION, STORAGE AND SALES OF OIL.

WASTE OF OIL PREVENTED—RECEIVER.

PETROLEUM CERTIFICATES.

TRANSPORTATION AND STORAGE OF OIL.

LAWS 1872, P. 22.

MARCH 12, 1872.

A FURTHER SUPPLEMENT to an act entitled "An act relating to corporations for mechanical, manufacturing, mining and quarrying purposes," approved the 18th day of July, A. D. 1863.

NOTE.—The original act has no reference to pipe lines.

Sec. 1. Be it enacted, etc.:

That the provisions of an act relating to corporations for mechanical, manufacturing, mining and quarrying purposes, approved the 18th day of July, 1863, and the supplements thereto, be and the same are hereby extended to the transportation and storage of petroleum in the counties of Venango, Warren, Forest, Armstrong, Clarion, Butler, Crawford and Erie; and that any company organized for such purposes, under the provisions of said act, shall have the right to transport, store, insure, and ship petroleum, and for that purpose to lay down, construct and maintain pipes, tubing, tanks, offices, and such other machinery, devices or arrangements as may be necessary, and to enter upon, use, and occupy such lands as may be requisite for the purposes of the company; and for rights of entry upon lands, rights of way, and the use of materials necessary to the construction, maintenance and operation of said lines of pipes and fixtures as aforesaid; they shall be entitled to all the rights and privileges and be subject to all the limitations and restrictions of railroad companies as contained in the act relating to railroad companies, approved February 19, 1849, and the supplements thereto: Provided however, That nothing herein contained shall be construed to authorize the construction of any railroad.

Sec. 2. That any company organized under the provisions of this act may at any time change the location of the whole or any part of their pipes, or construct a branch or branches from any point or points on the main line to any other point or place within the counties aforesaid; but before doing so, a majority of the directors of said company shall make, or cause to be made, a certificate in writing setting forth the proposed change, particularly setting forth the routes and termini, have the same acknowledged before a notary public, and recorded in the same manner as shall be provided in the original articles of the association.

REGULATING TRANSPORTATION, STORAGE, AND SALES OF OIL.

LAWS 1878, P. 104.

MAY 22, 1878.

AN ACT relating to corporations, companies, associations and persons engaged in the storage or transportation by pipe lines of crude or refined petroleum, and providing for reports and statements, and for the prevention of the issue or circulation of fraudulent receipts, certificates, accepted orders or vouchers, by said companies, corporations and persons, to prevent the removal or misappropriation of the petroleum received by the same, and providing for the appointment of examiners of the business thereof, and for penalties for violation of the provisions of this act.

Sec. 1. Be it enacted, etc.:

That every corporation, company, association, person, or persons, who are now engaged, or shall hereafter engage or continue, in the business of transporting or storing crude or refined petroleum, by means of pipe line or pipe lines, or storage by tanks, shall conduct such business in conformity with and subject to the provisions of this act.

Sec. 2. No receipt, certificate, accepted offer, or other voucher shall be issued or put in circulation, nor shall any order be accepted or liability incurred for the delivery of any petroleum, crude or refined, unless the amount of such petroleum represented in or by such receipt, certificate, accepted order, or other voucher or liability shall have been actually received by and shall then be in the tanks and lines, custody and control of the corporation, company, association, person or persons, issuing or putting in circulation such receipt, certificate, accepted order or voucher or incurring such liability.

No duplicate receipt, certificate, accepted order, or voucher shall be issued or put in circulation, or any liability incurred for any petroleum, crude or refined, while any former liability remains in force, or any former receipt, certificate, accepted order, or other voucher, shall be outstanding and uncanceled except in case such original paper shall have been lost, in which case a duplicate plainly marked "duplicate" upon the face, and dated and numbered as the lost original was dated and numbered, may be issued.

No receipt, voucher, accepted order, certificate, or written evidence of liability of such corporation, association, company, person, or persons, on which petroleum crude or refined, has been delivered, shall be reissued, used or put in circulation.

No petroleum, crude or refined, for which a receipt, voucher, accepted order, certificate or liability incurred, shall have been issued or put in circulation, shall be delivered except upon the surrender of the receipt, voucher, order, or liability representing such petroleum, except upon affidavit of loss of such instrument made by the former holder thereof.

No duplicate receipt, certificate, voucher, accepted order or other evidence of liability, shall be made, issued or put in circulation until after notice of the loss of the original and of the intention to apply for a duplicate thereof shall

have been given by advertisement over the signature of the owner thereof in at least four successive issues of a daily or weekly newspaper published in the county where such duplicate is to be issued.

Every receipt, voucher, accepted order, certificate, or evidence of liability, when surrendered, or the petroleum represented thereby delivered, shall be immediately canceled, by stamping or puncturing the same across the face in large and legible letters with the word "canceled." and giving the date of such cancellation, and it shall then be filed and preserved in the principal office of such corporation, association, company, person or persons.

Sec. 3. No corporation, association, company, or the officers or agents thereof, or any person or persons engaged in the transportation or storage of petroleum, crude or refined, shall sell or incumber, ship, transfer, or in any manner remove, or procure or permit to be sold, incumbered, shipped, transferred, or in any manner removed from the tanks or pipes of said corporation, association, company, person or persons engaged in the business aforesaid, any petroleum, crude or refined, without the written order of the owner or owners thereof.

Sec. 4.

NOTE.—The act has no sec. 4.

Sec. 5. Any corporation, association, company, and the officers, agents, managers and superintendents thereof, and any person or persons that are now or may hereafter be engaged or continue in the business of transporting by pipe lines or storing crude or refined petroleum shall, on or before the tenth day of each month, make or cause to be made and posted in the principal business office where such corporation, company, association, person, or persons is or are or may be engaged in business, in an accessible and convenient place, for the examination thereof by any person desiring such examination, and shall keep so posted continuously until the next succeeding statement is so posted, a statement plainly written or printed, signed by the officer, agent, person, or persons having charge of the pipes and tanks of said corporation, company, association, person or persons, and also by the officer or officers, person, or persons having charge of the books and accounts thereof, which statement shall show in legible and intelligible form the following details of the business:

First. How much petroleum, crude or refined, was in the actual and immediate custody of such corporation, company, association, person or persons at the beginning and close of the previous month, and where the same was located or held, describing in detail the location and designation of each tank or place of deposit, and the name of its owner.

Second. How much petroleum, crude or refined, was received by such corporation, company, association, person or persons during the previous month.

Third. How much petroleum, crude or refined, was delivered by such corporation, company, association, person or persons during the previous month.

Fourth. For how much petroleum, crude or refined, such corporation, company, association, person or persons were liable for the delivery or custody of to other corporations, companies, associations or persons, at the close of such month.

Fifth. How much of such liability was represented by outstanding receipts or certificates, accepted orders or other vouchers, and how much was represented by credit balances.

The statement so required to be made, shall also be sworn to by said officers, agent, person or persons, before some officer authorized by law to administer oaths, which oath shall be in writing and shall assert the familiarity and acquaintance of the deponent with the business and condition of such corpora-

tion, company, association, person or persons, and with the facts sworn to and that the statements made in the said report are true.

Sixth. That all the provisions of this act have been faithfully observed and obeyed during the said previous months.

Sec. 6. All amounts in the statements required by this act when the petroleum is handled in bulk shall be given in barrels and hundredths of a barrel, reckoning forty-two gallons to each barrel, and when such petroleum is handled in barrels or packages the number of such barrels or packages shall be given, and such statements shall distinguish between crude and refined petroleum and give the amount of each.

Every corporation, company, association, person, or persons engaged in the business aforesaid shall at all times have in their tanks and pipes an amount of merchantable oil equal to the aggregate of outstanding receipts, accepted orders, certificates, vouchers, acknowledgments, evidences of liability, and credit balances upon the books thereof.

Sec. 7. Any corporation, association, company, or officers or agents thereof, or person or persons, who shall make or cause to be made, sign or cause to be signed, issue or cause to be issued, put in circulation or cause to be put in circulation, any receipt, accepted order, certificate, voucher, or evidence of liability, or shall sell, transfer or alter the same, or cause such sale, transfer, or alteration, contrary to the provisions of this act, or shall do or cause to be done any of the acts prohibited by the second section of this act, or omit to do any of the acts by said section directed, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not exceeding one thousand dollars, and undergo imprisonment not less than ten days nor exceeding one year.

Sec. 8. Any corporation, association, company, or officer or agent thereof, or person or persons, who shall sell, encumber, transfer, or remove, or cause or procure to be sold, transferred or removed, from the tanks or pipes of such corporation, company, association, person or persons, any petroleum, crude or refined, without the written consent of the owner or owners thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of one thousand dollars, and undergo an imprisonment not less than ninety days and not exceeding two years.

Sec. 9. Any corporation, association, company, person or persons, engaged in the business of transporting by pipe lines or storing petroleum, crude or refined, and each and every officer or agent of such association, corporation, company, person or persons, who shall neglect or refuse to make the report and statement required by the fifth section of this act, within the time and in the manner directed by said section, shall forfeit and pay the sum of one thousand dollars, and in addition thereto the sum of five hundred dollars for each day after the tenth day of the month that the report or statement required by said section five shall remain unposted as therein directed.

Sec. 10. The holders of any receipts, certificates, accepted orders, or other vouchers or evidences of liability, or the owners of oil in the custody of any such corporation, association, company, person or persons described and referred to in this act, to an amount of not less in the aggregate than ten thousand barrels of petroleum, crude or refined, may at any time present their petition to the court of common pleas of any county wherein such corporation, association, company, person or persons may be engaged in business and have its principal office, or to any judge of said court in vacation, setting forth under oath their ownership as aforesaid and desire for the appointment of examiners for the purposes of this section; and upon such petitioners giving bonds to be approved by the court or by the judge granting the order that they will pay all expenses

and costs that may accrue in the proceedings, the court, or any judge thereof in vacation, shall forthwith appoint such a number of impartial, disinterested and expert persons as may be asked for in said petition as examiners, and shall fix the amount of their compensation; and the court or judge by order shall direct and empower such examiner to immediately inspect and measure all the petroleum, crude or refined, in the custody of any such corporation, company, association, person or persons, named in the said petition, on the day of such inspection, and to examine the books of said corporation, association, company, person or persons relating to the issue and cancellation of receipts, certificates, accepted orders, vouchers or evidences of liability, and to its, his or their open accounts with persons, companies or corporations with whom he, it or they deal in the receipt and delivery of crude or refined petroleum.

Such examiners, when so appointed, shall each immediately be sworn before any authorized officer to perform his duties with fidelity and according to law, which oath shall be reduced to writing, signed and filed with the prothonotary; and they shall then make immediate inspection, examination and measurement, as required by said petition and order and by this act.

And it shall be the duty of each and every such corporation, company, association, person or persons, and its, his and their officers, agents and employees, to give immediately, upon request of any such authorized examiner all information demanded in said petition and required by this act to be reported, and also full access to the offices, tanks, pipes, books and accounts of such corporation, company, association, person or persons.

Upon the completion of such inspection, measurement and examination, it shall be the duty of the examiner or examiners, or in the event of the death, resignation, declination or inability to act of any of them, then the others, or any of them, within ten days after their appointment, to make to the court appointing them a written signed and sworn report of such examination, inspection and measurement, and file the same of record with the prothonotary thereof, which report shall show:

First. How much merchantable and also how much unmerchantable petroleum, crude or refined, they found in the tanks and lines of such corporation, company, association, person or persons, and where the same was located or held by description of tanks;

Second. For the custody or delivery of how much crude or refined petroleum they found such corporation, association, company, person or persons, to be liable at the same date;

Third. How much of such liability was represented by outstanding receipts, accepted orders, certificates, vouchers or evidences of liability, and how much by credit balances.

Sec. 11. Any examiner, so as aforesaid appointed, who shall make any false examination, inspection, measurement or report, or shall make known, directly or indirectly, to any person, any information he may become possessed of in the course of his examination, inspection or measurement, except by means of his report made and filed in accordance with this act, or who shall receive, directly or indirectly, any fee, reward or benefit, or the promise of any fee, reward or benefit, other than that provided by this act, for the performance or nonperformance of any duty or thing contemplated by this act, or connected with his said employment, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of one thousand dollars and to imprisonment not less than three months or more than two years.

Sec. 12. Any officer, agent, manager, superintendent or employee of any corporation, association or company, or any person or persons, engaged in the

transportation by pipe lines of petroleum, crude or refined, or the storage thereof, who shall refuse or neglect, after demand made, to give to any authorized examiner full and free access to any and all offices, pipes, tanks, accounts, books and vouchers required by him in pursuance of his appointment and this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars and to imprisonment not less than three months or more than one year.

Sec. 13. All fines recovered from any person convicted under this act, and all penalties, shall be paid one-fourth to the informer or person instituting the proceeding and three-fourths to the proper officer for the use of the county wherein such suit is brought or prosecution instituted. The penalties provided for in this act may be recovered in any court of common pleas of any county where legal service of process may be had, by action of debt in the name of the informer for his use and the use of the county in which such suit is brought, but no such action shall be sustained for said penalties unless brought within one year after the incurring thereof.

Sec. 14. This act shall take effect on and after the passage of this act, and all former acts relating to the subject matter hereof are hereby repealed.

WASTE OF OIL PREVENTED—RECEIVER.

LAWS 1883, P. 79.

JUNE 5, 1883.

AN ACT to prevent the waste by the production of petroleum from lands in controversy in any action of ejectment, and to authorize the appointment of a receiver to take charge of producing wells during the pendency of such action.

Sec. 1. Be it enacted, etc.:

That whenever petroleum shall be produced from land in controversy in any action of ejectment hereafter commenced, the court in which said action is pending, or a law judge thereof at chambers, upon the application of the plaintiffs therein, may direct a writ of estrepement to issue against the defendant or defendants, and all parties claiming or acting under them, to prevent the further production of petroleum from the said land.

Sec. 2. Before an order directing the issuing of a writ of estrepement shall be made, under the first section of this act, the plaintiff or plaintiffs, or some one in his or their behalf, shall present, along with the application for said writ, an affidavit setting forth the facts upon which the application is based, and also a bond with sufficient sureties to be approved by said court or judge, conditioned to indemnify the defendant or defendants for all damages that may be sustained by reason of said writ of estrepement.

Sec. 3. Upon the application of any party interested the said writ of estrepement may be dissolved, by the said court or law judge, upon such terms and conditions as may be deemed proper in the discretion of said court or law judge.

Sec. 4. In case there shall be, upon the land in controversy, an open well or wells producing petroleum at the time when said writ of estrepement shall be applied, or at any time subsequent thereto, the court, or law judge thereof at chambers, may, unless the defendant or defendants shall give bond with sufficient sureties, and in a sum to the satisfaction of the court or law judge, conditioned to indemnify the plaintiff or plaintiffs in addition to awarding said writ, on the application of any party interested, appoint a proper person to take charge of the said well or wells and of the petroleum produced therefrom pending said action of ejectment, to have like power and authority upon like conditions and accountability as receivers under the equity practice of this Commonwealth.

PETROLEUM CERTIFICATES.

LAWS 1883, P. 127.

JUNE 20, 1883.

AN ACT to make accepted orders and certificates for petroleum negotiable.

Sec. 1. Be it enacted, etc.:

That accepted orders and certificates for petroleum, issued by any corporation or partnership association engaged in the business of transporting and storing petroleum in this State, shall be negotiable, and may be transferred by indorsement either in blank or to the order of another, and any person to whom the said accepted orders and certificates shall be so transferred shall be deemed and taken to be the owner of petroleum therein specified.

OIL AND GAS WELLS.

PLUGGING OIL WELLS.

PLUGGING GAS WELLS.

PROTECTION OF WELLS, TANKS, AND PIPES—MALICIOUS INJURY.

EXTENDING PROVISIONS—AMENDMENT.

ACTIONS AGAINST JOINT OWNERS FOR LABOR.

COUNTIES AUTHORIZED TO DRILL.

PREVENTION OF FIRES.

PLUGGING OIL WELLS.

LAWS 1881, P. 110.

JUNE 10, 1881.

AN ACT regulating the mode of plugging abandoned oil wells, and providing a penalty for the violation thereof.

Sec. 1. Be it enacted, etc.:

That whenever any well shall have been put down for the purpose of exploring for and producing oil, upon abandoning or ceasing to operate the same, the owner or operator shall, for the purpose of excluding all fresh water from the oil-bearing rock and before drawing the casing, fill up the well with sand or rock sediment to the depth of at least twenty feet above the third sand or oil-bearing rock, and drive a round, seasoned, wooden plug at least two feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing, and, immediately after the drawing of the casing, shall drive a round wooden plug into the well at the point just below where the lower end of the casing shall have rested, which plug shall be at least three feet in length, tapering in form and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well below the point at which it is to be driven; after it has been properly driven shall fill in on top of same with sand or rock sediment to the depth of at least five feet.

Sec. 2. Any person who shall violate the provisions of this act shall be liable to a penalty of two hundred dollars, one half to be for the use of the informer and one half to the use of the school district in which such well may be situated, to be recovered as debts of like amount are by law recoverable.

Sec. 3. Whenever any owner or operator shall neglect or refuse to comply with the provisions of this section one of this act, the owner of, or operator upon any land adjoining that upon which such abandoned well may be, may enter, take possession of said abandoned well and plug the same as provided by this act, at the expense of the owner or operator whose duty it may be to plug the same.

Sec. 4. All acts or parts of acts inconsistent herewith are hereby repealed.

PLUGGING GAS WELLS.**LAWS 1885, P. 29.****MAY 29, 1885.**

AN ACT to provide for the incorporation and regulation of natural gas companies.

Sec. 1. Be it enacted, etc. * * *

* * * * *

NOTE.—Secs. 1 to 19, inclusive, and sec. 23 of this act are under the title Natural Gas Companies—Incorporation and Regulation. Secs. 20, 21, and 22 are properly placed under this title.

Sec. 20. That whenever any well shall have been put down on lands of any company authorized by this act for the purpose of exploring for, or producing gas, upon abandoning or ceasing to operate the same the company shall, before drawing the casing, fill up the well with sand or rock sediment to the depth of at least twenty (20) feet above the gas bearing rock, and drive a round seasoned wooden plug at least two feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing, and immediately after the drawing of the casing shall drive a round wooden plug into the well at the point just below where the lower end of the casing shall have rested, which plug shall be at least three feet in length, tapering in form, and to be of the same diameter at the distance of eighteen inches from the smaller end of the diameter of the well below the point at which it is to be driven. After the plug has been properly driven there shall be filled in on the top of the same sand or rock sediment to the depth of at least five feet.

Sec. 21. Any company which shall violate the provisions of the preceding section shall be liable to a penalty of two hundred (\$200) dollars to be recovered as debts of like amount are by law recoverable.

Sec. 22. Whenever any company shall neglect or refuse to comply with the provisions of this act with regard to plugging wells, any owner of lands adjacent, or in the neighborhood of, such unplugged well, may enter and take possession of said abandoned well and plug the same as provided by this act at the expense of the company whose duty it may have been to plug the same.

PROTECTION OF WELLS, TANKS, AND PIPES—MALICIOUS INJURY.**LAWS 1885, P. 145.****JUNE 23, 1885.**

AN ACT to protect oil, gas and water wells, tanks, pipes and machinery connected therewith, and to prevent wilful and malicious injury thereto.

Sec. 1. Be it enacted, etc.:

NOTE.—Section 1 amended as shown by the following act:

EXTENDING PROVISIONS—AMENDMENT.**LAWS 1917, P. 748.****JULY 6, 1917.**

AN ACT amending section 1 of the act of June 23, 1885 (P. L. 145), entitled "An act to protect oil, gas, and water wells, tanks, pipes, and machinery connected therewith, and to prevent wilful and malicious injury thereto," extending the provisions thereof to reservoirs, standpipes, pumping stations, power houses, and other buildings or appliances used for the supply of water or electric current.

Sec. 1. Be it enacted, etc.:

That section 1 of the act of June 23, 1885 (P. L. 145), which reads as follows: (here follows sec. 1 of the act of 1885), be, and the same is hereby, amended so that it shall read as follows:

Sec. 1. Be it enacted, etc.:

That if any person shall wilfully and maliciously injure, or destroy, or attempt to injure or destroy, any well sunk for the production of oil, or gas,

or water, or any reservoir, standpipe, or tank, intended or used for the storage of oil, or gas, or water, or any pumping station, valve, or pipe-line intended or used for the transportation of oil, or gas, or water, or any power house, substation, cable, or wire intended or used for the manufacture or transportation of electric current, or any machinery connected with such wells, tanks, lines of pipe, reservoirs, standpipes, pumping stations, compressing stations, power houses, substations, cables, or wires, he shall be guilty of a misdemeanor; and upon being thereof convicted, shall be sentenced to pay a fine not exceeding one thousand dollars, and undergo imprisonment not exceeding three years, or both or either at the discretion of the court.

NOTE.—Remaining sections of original act.

Sec. 2. That whenever any well shall have been put down on lands of any person, or corporation, for the purpose of exploring for or producing gas, upon abandoning, or ceasing to operate the same, the person, or corporation, drilling or owning the well, shall, before drawing the casing, fill up the well with sand, or rock sediment, to the depth of at least twenty (20) feet above the gas-bearing rock, and drive a round, seasoned wooden plug, at least two feet in length, equal in diameter to the diameter of the well below the casing to a point at least five feet below the bottom of the casing, and, immediately after the drawing of the casing, shall drive a round wooden plug into the well, at the point just below where the lower end of the casing shall have rested, which plug shall be at least three feet in length, tapering in form, and to be of the same diameter at the distance of eighteen inches from the smaller end of the diameter of the well below the point at which it is to be driven. After the plug has been properly driven, there shall be filled in on the top of the same, sand or rock sediment, to the depth of at least five feet.

Sec. 3. Any person who shall violate the provisions of the preceding section shall be liable to a penalty of two hundred (\$200) dollars, to be recovered as debts of like amount are by law recoverable.

Sec. 4. Whenever any person shall neglect, or refuse to comply with the provisions of this act, with regard to plugging wells, any owner of lands adjacent, or in the neighborhood of such unplugged well, may enter and take possession of said abandoned well, and plug the same, as provided by this act, at the expense of the person, or company, whose duty it may have been to plug the same.

Sec. 5. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

ACTIONS AGAINST JOINT OWNERS FOR LABOR.

LAWS 1891, P. 41.

MAY 6, 1891.

AN ACT authorizing actions in assumpsit by and against joint owners, joint tenants and tenants in common, holding an interest in and operating any drilling, pumping or producing oil or gas well.

Sec. 1. Be it enacted, etc.:

That from and after the passage of this act, any person or persons performing labor of any kind whatever, or furnishing materials for, upon or about any drilling, pumping or producing oil or gas well, shall have the right to bring suit in assumpsit against any joint owner, joint tenant or tenant in common holding an interest in and operating such drilling, pumping or producing oil or gas well, to recover from such joint owner, joint tenant or tenant in common, the pro rata share due and owing by such joint owner, joint tenant or tenant in common for any labor done, or materials furnished in, upon or about such drill-

ing, pumping or producing oil or gas well, and the interest of such joint owner, joint tenant or tenant in common shall be subject to levy and sale upon any execution issued to enforce collection of any claim under this act, after judgment obtained by due process of law.

Sec. 2. Any joint owner, joint tenant or tenant in common, paying the pro rata share of the necessary expenses of any drilling, producing or pumping oil or gas well for any other joint owner, joint tenant or tenant in common holding an interest in and operating such drilling, pumping or producing oil or gas well, shall have or possess all the rights of action, as provided in the first section of this act, to the same extent as is given hereby to the person or persons performing the said labor or furnishing such materials: Provided, That no joint owner, joint tenant or tenants in common shall be required by this act to pay any share of the expenses of operations commenced and carried on without his authority or consent.

Sec. 3. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

COUNTIES AUTHORIZED TO DRILL.

LAWS 1907, P. 98.

APRIL 23, 1907.

AN ACT authorizing county commissioners of the several counties of this Commonwealth to contract for the drilling of gas wells, in lands owned by the particular county, for the purpose of furnishing light and fuel for the county buildings of that county.

Sec. 1. Be it enacted, etc.:

That from and after the passage of this act, the county commissioners of the several counties of this Commonwealth, situated in regions wherein natural gas is known to be obtainable, be and they are hereby authorized to contract for the drilling of gas wells upon any lands owned by their particular county, for the purpose of furnishing gas for light and fuel to the county buildings of that county, and for other purposes, and for that purpose to contract for the laying of gas lines, equipped with such modern appliances and machinery as may be necessary to carry out the intentions of this act.

Sec. 2. That contracts for the building of rigs or derricks, or for the drilling of wells, or the laying of pipe lines, or the purchase of machinery, shall be made by said county commissioners only after the specifications therefor shall have been published in at least two newspapers of general circulation published in the county seat of said county, representing the two dominant political parties in said county, of the time and place of letting said contract or contracts; at which time and place the bids shall be publicly opened and the contract or contracts awarded to the lowest and best bidder for the same.

Sec. 3. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

PREVENTION OF FIRES.

LAWS 1907, P. 527.

JUNE 12, 1907.

AN ACT establishing precautionary regulations to prevent forest fires on lands in which oil wells and gas wells are situated and diminish danger therefrom; making certain violations thereof misdemeanors and prescribing punishment for the same, and in other cases affixing penalties and declaring liability for damages.

Sec. 1. Be it enacted, etc.:

That fallows, stumps, logs, brush, dry grass, fallen timber, or tree tops shall not be burned in any forest lands of this Commonwealth in which there are producing oil wells or gas wells, or rigs erected for drilling such wells, from

the first day of April in each year to the twentieth day of May next ensuing, nor from the tenth day of September in each year to the tenth day of November next ensuing. Excepting during the periods aforesaid, fires may be set in such lands upon the following conditions: First, that written permission thereto of the fire warden of the proper township shall first be obtained; second, said fire warden shall be personally present when such fire is started; third, such fire shall not be started during a strong wind, nor without sufficient help to control the same at all times; fourth, such fire shall be watched and guarded by the person by whom it is started until it is extinguished. No fires shall be set or allowed to burn in said lands, excepting upon compliance with the conditions aforesaid. Any person violating any provisions of this section shall be deemed guilty of a misdemeanor; and upon being convicted thereof before any alderman or magistrate shall be fined by the said alderman or magistrate—for the first offense, in a sum not less than ten dollars nor more than twenty dollars, and for the second and every subsequent offense, in a sum not less than twenty nor exceeding one hundred dollars, to be paid to the county wherein such offense may be committed; and if said fine or penalty and the costs of the proceedings be not paid, then said alderman or magistrate shall commit said offender to the county jail, there to remain until discharged by due course of law; Provided, That when the fine imposed exceeds the sum of twenty dollars the party complained against may appeal from the decision of said alderman or magistrate to the court of quarter sessions, upon his entering bail, in the nature of a recognizance, in the usual manner for his appearance at said court where the offense shall be prosecuted in the same manner as is now directed by law in other cases of misdemeanor.

Sec. 2. Any owner or lessee of any forest lands, or owner of trees growing upon said lands, or any person in charge of the premises upon which lands there are producing oil wells or gas wells, or rigs erected for drilling such wells, shall, at least once in each year, cause to be moved from said lands all brush, tree tops, and branches of trees, which such owner, lessee, or other person in charge of the premises, may have cut or felled thereon, within one hundred feet, respectively, of all such wells or rigs; and shall, at least once in the year, cause to be removed from said land all grass, brush, tree tops, and branches of trees, and other inflammable material, within one hundred feet of the right of way of any railroad company operating thereon; to the end that during the spring and autumn season, as defined in the first section of this act, the said area shall be free and clear of such inflammable material. In case any person, partnership, or corporation shall neglect to perform the duty imposed by this section, the same shall be liable to a penalty of fifty dollars for failure, in any instance, to comply with the duty imposed by this section; to be paid to the county where the offense may be committed, recoverable in an action of assumpsit, in which the county wherein such violation occur shall be the plaintiff.

Sec. 3. Every railroad company shall, on such part of its road as passes through forest land on which there are producing oil wells or gas wells, or rigs erected for drilling such wells, cut and remove from its right of way through said lands, at least once a year, all grass, brush and other inflammable materials; employing, in the seasons defined in the first section of this act, sufficient trackmen to promptly put out fires on its right of way; provide locomotives thereon with steel netting or iron wire on the smokestacks, or other efficient spark-arresters, to prevent the escape of fire or sparks, and adequate devices to prevent the escape of fire from ashpans and furnaces, and the same shall be used by every engineer and fireman on such part of its road. No railroad company, or employe thereof, shall deposit fire, coals, or ashes on its track or right of way

near such lands. In case of fire on its own or neighboring lands, within one hundred feet of its tracks, the railroad company shall use all practicable means to put it out. In case of any violation of the provisions of this section, such railroad company shall be answerable to the owner or owners of any property destroyed or injured by fire in consequence of such violation; and said company shall further be liable to a penalty of one hundred dollars for such violation, to be paid to the county wherein the violation may occur, recoverable in an action of assumpsit in which the county wherein such violation occurs shall be the plaintiff.

PIPE LINES.

INCORPORATION—PIPE LINE COMPANIES.

INCORPORATION—PIPE LINE COMPANIES.

LAWS 1883, P. 61.

JUNE 2, 1883.

AN ACT supplementary to an act, entitled "An act for the incorporation and regulation of corporations," approved April 29, 1874, authorizing the incorporation of pipe lines for the transportation of petroleum, and providing for the exercise of the right of eminent domain in taking lands and property for such purposes.

Sec. 1. Be it enacted, etc.:

That the 18th clause of the second subdivision of sec. 1 of the act of the general assembly, entitled, "An act for the incorporation and regulation of corporations," approved April 29, 1874, which reads as follows: (here follows the original clause 18), be and the same is hereby amended to read as follows:

XVIII. The carrying on of any mechanical, mining, quarrying or manufacturing business, including all of the purposes covered by the provisions of the act of general assembly, entitled "An act to encourage manufacturing operations in this Commonwealth," approved April 7, 1849, and entitled "An act relating to corporations for mechanical, manufacturing, mining and quarrying purposes," approved July 18, 1863, and the several supplements to each of said acts, including the incorporation of grain elevators, storage warehouse and storage yard companies; and also including the storage and transportation of water, with the right to take rivulets and land, and erect reservoirs for holding water, and excluding the distilling or manufacture of intoxicating liquors; and companies may be organized under this act, having the right to transport, store, insure and ship petroleum, and for that purpose to lay down, construct and maintain pipes, tubing tanks, offices and such other machinery, devices or arrangements as may be necessary to fully carry out that right; and also with the right to enter upon, take and occupy such land and other property, as may be requisite for the purposes of such corporations.

Sec. 2. That all companies incorporated or hereafter to be incorporated under the provisions of the act to which this is a supplement, for the purpose of the transportation and storage of oil, by means of pipe lines and tanks, for the public, shall have the power to take, hold, purchase and transfer such real and personal property as the purposes of the corporation may require, not exceeding the amount limited by its charter, together with the right to appropriate and take lands, easements and rights of way for locating and constructing steam pumps, tanks, pump houses and offices, and laying down its pipes or tubes, connections and branches, from any point or points in any of the counties in which petroleum is produced to any railroad, canal, navigable river, port or city within this Commonwealth, and for all necessary purposes of the corporation, includ-

ing right to cross railroads, and the right to appropriate a right of way and locate its pipes or tubes, upon and over, under and across any lands, waters, streams, rivulets, roads, turnpike roads, canal or other public highway, not however, passing through any burying ground or place of public worship, or any warehouse, mill, manufactory, store or dwelling house without the consent of the owner or owners thereof being first had and obtained: Provided, That when said pipe line is located through, over, under or upon the streets, lanes, alleys or highways within the corporate limits of any city or borough, the consent of the municipal authorities to said location shall be first had and obtained, which consent said municipal authorities are hereby empowered to give upon terms to be agreed upon by said city or borough authorities, and said corporation: And provided further, In case said pipes cross any railroad or canal the same shall be located under or above the same, so, however, as not to interfere with the use of the same: Provided further, That corporations organized under this act and its supplements, shall not take a fee in any lands acquired under any of its provisions, except such as are acquired by actual purchase, and that upon the abandonment for the purposes of transporting oil, any lands taken by any company organized under the act to which this is a supplement and its supplements, said lands so taken, otherwise than by actual purchase, shall revert to the original owners or their successors: And provided further, That any pipe line, so laying its pipes under the provisions of this act, in occupying any lands cleared and used for agricultural purposes, shall bury the same at least twenty-four inches below the surface, and if any line of pipe shall be laid over or through any waste or woodland, which shall afterwards be changed from waste or woodland to farming land, then it shall be the duty of the pipe line company to immediately bury the pipe, to the depth of at least twenty-four inches as aforesaid: Provided, That all pipe lines shall be laid above the flood lines, or beneath the bed, in crossing creeks and rivulets: And provided further, That any company laying a pipe line under the provisions of this act, shall be liable for all damages occasioned by leakage, breaking of pipes or tanks: Provided further, That all tanks erected for the storage or transportation of oil, shall be protected and surrounded by ditches and embankments, so that, in case said tanks should break or be broken, the oil stored can not damage adjoining property.

Sec. 3. In all cases, when under the provisions of this act, said corporation is permitted to take lands or property for the public purposes of said corporation, or to acquire a right of way easement for the purposes of locating its pipes or branches over, upon, under or across any lands, streams, rivulets, roads, turnpike roads, railroads, canals or other highways, and the said corporation can not agree with the owner or owners of any such lands, road, turnpike road, railroad, canal or other highway or franchise, for the compensation proper for the damage done, or likely to be done to or sustained by any such owner or owners of said waters, streams, land, road, turnpike road, railroad, land or other highways, which such corporation may enter upon, use in pursuance of the authority herein given, or by reason of the absence or legal incapacity of any such owner or owners, no such compensation can be agreed upon, the court of common pleas of the proper county, on application thereto by petition, either by said corporation or the owner or owners, or any one in behalf of either, shall appoint seven discreet and disinterested freeholders, residents of the proper county, and appoint a time, not less than twenty (20) nor more than thirty (30) days thereafter for said viewers to meet at or upon the premises, where the damages are alleged to be sustained or the property taken, of which time and place ten days' notice shall be given by the petitioner to the said

viewers and the other party, and the said viewers, or any five (5) of them, having been first duly sworn or affirmed, faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance of the provisions of this act, and, having viewed the premises, they shall estimate and determine the quantity, quality and value of said lands, streams, property, easement, franchise or rights of way so taken, and shall award to the owner or owners thereof just compensation for the property taken, injured or destroyed by the construction or enlargement of such pipe lines, works and improvements: which compensation shall be paid or secured as hereinafter provided, before such taking, injury or destruction: Provided, That for any subsequent injury, taking or destruction of property, the owner or owners of the property taken, injured or destroyed, shall have the right to recover full compensation for such taking, injury or destruction, and an action for any subsequent injury or taking, or destruction of property may be brought within the county in which the damages are sustained and the summons may be directed to the sheriff of the county in which the corporation defendant may have its principal place of business, and service may be made upon the president, secretary or other officer in charge of said principal office, to have the same effect as if the said corporation defendant was resident within the proper county, and make report thereof to the said court; and if any damages be awarded, and the report be confirmed by the said court, judgment shall be entered thereon; and if the amount thereof be not paid within thirty (30) days after the entry of such judgment, execution may then issue thereon, as in other cases of debt, for the sum so awarded: and the costs and expenses incurred, shall be defrayed by the corporation; and each of said viewers shall be entitled to two dollars and fifty cents (\$2.50) per day, for each day necessarily employed in the performance of the duties herein prescribe to be paid by such corporation, in all cases where the parties can not agree upon the amount of damages claimed, or by reason of the absence or legal incapacity of such owner or owners no such agreement can be made, either for lands, streams, waters, water rights, franchises, rights of way, the corporations shall tender a bond, with at least two sufficient sureties, to the parties claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said corporation will pay such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties, or assessed in the manner provided for by this act: Provided, That in case the party or parties claiming damages refuse, or do not accept the bond tendered, the said corporation shall then give the party a written notice of the time when the same will be presented for filing in court, and thereafter the said corporation may present said bonds to the court of common pleas of the county where the lands, streams, waters, rivulets, roads, railroads, turnpike roads, canals or other highways are; and if the sureties and the amount of the bond be approved, the bond shall be filed in said court for the benefit of those interested, and recovery may be had thereupon for the amount of damages assessed, if the same be not paid or can not be made by execution on the judgment in the issue formed to try the question. The viewers provided for in this section may be appointed before or after the entry for constructing said work, and after the filing of the bond hereinbefore provided for, and upon the report of the said viewers, or any three of them, being filed in said court, either party, within thirty (30) days thereafter, may file his, her or their appeal from said report to said court; after such appeal either party may put the cause at issue in the form directed by said court, and the same shall be tried

by said court and a jury, and after final judgment either party may have a writ of error thereto from the Supreme Court, in the manner prescribed in other cases; the said court shall have power to order what notices shall be given of the proceedings, and may make all such orders connected with the same, as may be deemed requisite; if any exceptions be filed with any appeals to the proceeding, the same shall be speedily disposed of, and if allowed, a new view shall be ordered; and if disallowed, the appeal shall proceed as before provided: Provided further, That when the term owner is used in the foregoing section to this act, or in this act in reference to an effort to agree with, or to the tender of a bond to, or service of notice upon the owner of roads, railroads, turnpike roads, canals or other highways, the same shall be taken to mean the officers in charge of said road, railroad, turnpike road, canal or other public highways, on whom service of process could be made in any action at law or in equity: Provided, That all companies, organized under this act, shall have their terminus in Pennsylvania.

TAXATION.

PIPE LINES—CORPORATIONS.

PIPE LINES—CORPORATIONS.

LAWS 1889, 420, P. 431.

JUNE 1, 1889.

A FURTHER SUPPLEMENT to an act entitled "An act to provide revenue by taxation," approved June 7, 1879.

* * * * *

Sec. 1. Be it enacted, etc.:

That from and after the passage of this act, all personal property of the classes hereinafter enumerated, owned, held or possessed by any person, persons, copartnership, or unincorporated association or company, resident located or liable to taxation within this Commonwealth, or by any joint stock company or association, limited partnership, bank or corporation whatsoever, formed, erected or incorporated by, under, or in pursuance of any law of this Commonwealth or of the United States, or of any other State or government, and liable to taxation within this Commonwealth, whether such personal property be owned, held or possessed by such person or persons, copartnership, unincorporated association, company, joint stock company or association, limited partnership, bank or corporation in his, her, their, or its own-right, or as active trustee, agent, attorney-in-fact or in any other capacity, for the use, benefit or advantage of any other person, persons, copartnership, unincorporated association, company, joint stock company or association, limited partnership, bank or corporation, is hereby made taxable annually for State purposes at the rate of three mills on each dollar of the value thereof, and no failure to assess or return the same shall discharge such owner or holder thereof from liability therefor to the Commonwealth. * * *

* * * * *

Sec. 19. That hereafter no limited partnership, bank, joint-stock association, association, corporation or company whatsoever, formed, erected, incorporated or organized, by or under any law of this Commonwealth, general or special, or formed, erected, incorporated or organized under the laws of any other State, and doing business in this Commonwealth, shall go into operation, without first having the name of the institution or company, the date of

incorporation or organization, the act of assembly or authority under which formed, incorporated or organized, the place of business, the post-office address, the names of the president, chairman, secretary and treasurer or cashier, and the amount of capital authorized by its charter, and the amount of capital paid into the treasury, registered in the office of the auditor general; and every limited partnership, bank, association, joint-stock association, company or corporation whatsoever, now engaged in business in this Commonwealth, shall within ninety days after the passage of this act, register as herein required in the office of the auditor general; all the corporations, companies, associations and limited partnership aforesaid shall annually thereafter notify the auditor general of any change in their officers; and any such institution or company which shall neglect or refuse to comply with the provisions of this section, shall be subject to a penalty of five hundred dollars, which penalty shall be collected on an account settled by the auditor general and State treasurer in the same manner as taxes on capital stock are settled and collected.

Sec. 20. That hereafter, except in the case of banks, savings institutions, and foreign insurance companies, it shall be the duty of the president, chairman or treasurer of every corporation, joint-stock association and limited partnership whatsoever, now or hereafter organized or incorporated by or under any law of this Commonwealth, and of every corporation, joint-stock association and limited partnership whatsoever, now or hereafter incorporated or organized by or under the laws of any other State or Territory of the United States, or by the United States or by any foreign government, and doing business in and liable to taxation within this Commonwealth, or having capital or property employed or used in this Commonwealth by or in the name of any limited partnership, joint-stock association, company or corporation whatsoever, association or associations, copartnership or copartnerships, person or persons, or in any other manner, to make a report in writing to the auditor general, annually in the month of November, stating specifically:

First. Total authorized capital stock.

Second. Total authorized member of shares of stock.

Third. Number of shares of stock issued.

Fourth. Par value of each share.

Fifth. Amount paid into the treasury on each share.

Sixth. Amount of capital paid in.

Seventh. Amount of capital upon which dividend was declared.

Eighth. Date of each dividend declared during said year ended with the first Monday of November.

Ninth. Rate per centum of each dividend declared.

Tenth. Amount of each dividend during the year ended with the first Monday in said month.

Eleventh. Gross earnings during said year.

Twelfth. Net earnings during said year.

Thirteenth. Amount of surplus.

Fourteenth. Amount of profit added to sinking fund during said year.

Fifteenth. Highest price of sales of stock between the first and fifteenth days of November aforesaid.

Sixteenth. Highest price of sales of stock during the year aforesaid.

Seventeenth. Average price of sales of stock during the year; and in all cases where any such corporation joint-stock association or limited partnership, shall fail to make any dividend upon either its common or preferred stock during the year ended as aforesaid, or in case the dividend or dividends made or declared on either common or preferred stock during said year shall amount to less than

six per centum upon the par value of said stock, any two of the following-named officers thereof, namely, the president, chairman, treasurer, and secretary, after being duly sworn or affirmed to do and perform the same with fidelity and according to the best of their knowledge and belief, shall, between the first and fifteenth days of November of each year in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of the said common or preferred stock, estimate and appraise the capital stock upon which no dividend has been made or declared or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash, not less however than the average price which said stock sold for during said year, and not less than the price or value as indicated or measured by the amount of the dividends made or declared, and when the same shall have been so truly estimated and appraised they shall forthwith forward to the auditor general a certificate thereof, accompanied by a copy of their said oath or affirmation, signed by them, and attested by the magistrate or other person duly qualified to administer the same. * * *

Sec. 21. That every corporation, joint-stock association and limited partnership whatsoever, now or hereafter incorporated or organized by or under any law of this Commonwealth, or of any other State or Territory of the United States, or of the United States, or of any foreign government, and doing business in this Commonwealth, or having capital or property employed or used in this Commonwealth by or in the name of any corporation, company, joint-stock association, limited partnership, co-partnership, association or associations, person or persons, or in any other manner, except banks, savings institutions and foreign insurance companies, shall be subject to and pay into the treasury of the Commonwealth annually a tax to be computed as follows, namely: If the dividend or dividends made or declared by such corporation, joint-stock association, or limited partnership, as aforesaid, during any year ended with the first Monday of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-half mill upon the capital stock for each one per centum of dividend so made or declared; if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of three mills upon each dollar of a valuation of the said capital stock made in accordance with the provisions of the twentieth section of this act; and in case any such corporation, joint-stock association and limited partnership shall have more than one kind of capital stock, as for instance common and preferred stock, and upon one of said stocks a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-half mill for each one per centum of dividend made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto tax shall be charged at the rate of three mills upon each dollar of a valuation, made in accordance with the provisions of the twentieth section of this act, of the capital stock upon which no dividend was made or declared or upon the par value of which the dividend or dividends made or declared did not amount to six per centum; and it shall be the duty of the treasurer or other officers having charge of any such corporation, joint-stock association or limited partnership, upon which a tax is imposed by this section of this act, to transmit the amount

of said tax to the treasury of the Commonwealth, within sixty days from the date of the settlement of the account by the auditor general and State treasurer.

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Sec. 23. That every pipe line company * * * now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other State or by the United States or any foreign government, and doing business in this Commonwealth, and owing, operating or leasing to or from another corporation, company, association, joint-stock association or limited partnership, any * * * pipe line * * * or other device for the transportation of * * * oil, * * * shall pay to the State treasurer a tax of eight mills upon the dollar upon the gross receipts of said corporation, company or association, limited partnership, firm or copartnership, received from * * * the transportation of oil done wholly within the State; the said tax shall be paid semi-annually upon the last days of January and July in each year; and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, firm, copartnership, limited partnership, joint-stock association or corporation, to transmit to the auditor general a statement, under oath or affirmation, of the amount of gross receipts of the said companies, copartnerships, corporations, joint-stock associations or limited partnerships derived from all sources, and of gross receipts from business done wholly within the State, during the preceding six months ending on the first days of January and July in each year; and if any such company, firm, copartnership, joint-stock association, association or limited partnership, or corporation, shall neglect or refuse for a period of thirty days after such tax becomes due, to make said returns or to pay the same, the amount thereof with an addition of ten per centum thereto, shall be collected for the use of the Commonwealth as other taxes are recoverable by law: Provided, That in any case where the works of one corporation, company, joint-stock association or limited partnership are leased to and operated by another corporation, company, association, or limited partnership, the taxes imposed by this section shall be apportioned between the said corporations, companies, associations or limited partnerships in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the Commonwealth shall first look to the corporation, company, association or limited partnership operating the works, and upon payment by the said company, corporation, association, or limited partnership of a tax upon the receipts as herein provided derived from the operation thereof, the corporation, company, joint-stock association, or limited partnership from which the said works are leased, shall not be held liable under this section for any tax upon the proportion of said receipts received by it as rental for the use of said works.

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TENNESSEE.

CONTENTS.

	Page.
Oil wells-----	294
Companies—Incorporation-----	294
Pipe lines-----	295
Companies—Incorporation-----	295
Taxation—Schedules-----	296

OIL WELLS.

COMPANIES—INCORPORATION.

CODE OF TENNESSEE, 1917, VOL. 1, P. 1702.

2330. 1851. Mining and quarrying companies; oil and salt; manufactories.

The following shall be the form of charter for * * * boring for petroleum, rock oil, salt water, or other valuable liquid hidden in the earth. * * * (Laws 1875, Chap. 142, Sec. 11).

2331. 1852. Form of charter.

The following shall be the form of charter:

STATE OF TENNESSEE—CHARTER OF INCORPORATION.

Be it known that by virtue of the general laws of the land (here copy the names of the five or more corporators) are hereby constituted a body politic and corporate, by the name and style of (here set forth the name of the corporation and the nature of the business). The amount of the capital stock shall be ----- dollars (\$-----). (Laws 1875, Chap. 142, Sec. 11; 1897, Chap. 32.)

* * * * *

2333. 1854. Right and power of eminent domain.

The said corporation shall have the right, in pursuance of the general law authorizing the condemnation of private property for works of internal improvement, as set forth in sections 1844 to 1867, inclusive, to condemn a right of way necessary for the transaction of the corporate business, not exceeding thirty feet in width, over the lands of any private person or corporation, and such right of way is hereby declared to be a public road. (Laws 1875, Chap. 142, Sec. 11.)

2334. 1855. Annual statements and list of stockholders to be published.

Annually, during the month of January, the president shall make and publish in a newspaper printed in the county where the principal office of business is located, or, if no newspaper is printed in that county, then in an adjoining or the nearest county where a newspaper is printed, a sworn statement, showing the amount of the capital stock and the existing liabilities, and a list of names of the stockholders. (Laws 1875, Chap. 142, Sec. 11.)

2335. 1856. Capital stock to be paid in cash or land; no loans to stockholders.

Nothing but cash shall be taken in payment of any part of the capital stock, or land at a fair cash valuation, and no loan of money shall at any time be

made to any stockholder thereof, and any such loan shall render the directors consenting thereto individually liable for the amount thereof, this liability to extend in favor of innocent stockholders as well as creditors. (Laws 1875, Chap. 142, Sec. 11.)

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PIPE LINES.

COMPANIES—INCORPORATION.

TAXATION—SCHEDULES.

COMPANIES—INCORPORATION.

LAWS 1919, P. 238.

APRIL 3, 1919.

CHAPTER NO. 98.

AN ACT to amend an Act entitled "An Act to provide for the organization of corporations," being Chapter 142 of the Acts of 1875, passed March 19, 1875, approved March 23, 1875, so as to provide for the organization of pipe line companies.

Sec. 1. Be it enacted, etc.:

That Chapter 142 of the Acts of 1875 entitled "An Act to provide for the organization of corporations," passed March 19, 1875, approved March 23, 1875, be and the same is hereby amended so as to provide for the organization of pipe line companies.

Sec. 2. Be it further enacted:

That form of charter for pipe line companies shall be as follows:

STATE OF TENNESSEE—CHARTER OF INCORPORATION.

Be it known that (here insert the names of five or more persons not under twenty-one years of age) are hereby constituted a body politic by the name and style of (here insert name of corporation) for the purpose of constructing and operating pipe lines for the transportation of articles of commerce.

Said corporation shall have the power to construct and operate pipe lines for the transportation of any article of commerce capable of being conveyed by pipe lines, as, for instance, petroleum and other fluid oils, gas, acids and alkalines, and, in general, any mineral or mineral product. And to do and perform the general duties of a common carrier of goods by pipe line as far as practicable.

The general powers, provisions and restrictions applicable to said corporation are (here set forth the powers enumerated in Section 5 of Chapter 142 of the acts of 1875).

Sec. 3. Be it further enacted:

That said corporation shall have the right in pursuance of the general laws authorizing condemnation of private property to works of internal improvement as set forth in Section 1325 to 1348, both inclusive, of the Code of Tennessee, to appropriate as an easement a right-of-way of lands necessary for its said pipe lines; and also and for pump stations and terminal facilities over and of land of any person or corporation through which a pipe line may be located (said Section of Code here to be literally copied and inserted.) Provided, however, that no such pipe line as is provided for in Section 1, shall be run in through or across any streets, alleys, squares, or highways, within the corporate limits of any municipality in the State of Tennessee until the right to do so shall

have been approved by a majority of the votes of the qualified voters of such municipality at an election called and held for the purpose of determining such question.

Sec. 4. Be it further enacted:

That companies organized hereunder shall have the right to exact and receive the same tolls or freight rates for the transportation of goods as other common carriers.

Sec. 5. Be it further enacted:

That all companies organized hereunder shall furnish equal facilities to all persons and shall not discriminate in services, in charges, nor otherwise, either for or against any person, and shall be charged with all duties, responsibilities and liabilities imposed upon quasi public corporations by the laws of Tennessee.

Sec. 6. Be it further enacted:

That this Act take effect from and after its passage, the public welfare requiring it.

TAXATION—SCHEDULES.

LAWS 1919, P. 13.

FEBRUARY 17, 1919.

CHAPTER NO. 3.

AN ACT authorizing and directing the assessment for taxation for State, county, and municipal purposes by the Railroad Commission of the State of Tennessee, the properties of * * * pipe line companies, * * * providing the means and methods of such assessment and for the collection of taxes; to increase and fix the salaries of the Railroad Commissioners; to repeal Chapter 5 of the Acts of the General Assembly of 1897, Chapter 48 of the Acts of the General Assembly of 1901, Chapter 513 of the Acts of the General Assembly of 1905, in so far as they conflict herewith, the purpose of this Act being to embrace all legislation upon the subjects therein embraced, but saving and reserving the rights of the State accrued or which may have accrued under any of said Acts.

Sec. 1. Be it enacted, etc.:

That the Railroad Commission of the State of Tennessee, hereinafter called the Railroad Commission, shall be and are hereby authorized and directed to assess for taxation, for State, county and municipal purposes, all of the properties of every kind and description, tangible and intangible, within the State belonging to the following named persons, companies, corporations, firms, co-partnerships or associations of persons, hereinafter referred to as companies, namely: * * * (9) Pipe lines; (10) Gas companies. * * * The Railroad Commission shall assess all of said property biennially at its actual cash value as of the same date the properties of other persons are by law assessed.

Sec. 2. Be it further enacted:

That it shall be the duty of the owners of property such as that mentioned in Section 1 of this Act within the State, to file with the Railroad Commission on or before the first day of April, 1919, and biennially thereafter on or before said date, under oath, schedules and statements giving the following information; concerning all properties owned or leased by such owners: (1) the name of the company, its nature, whether a person, association, co-partnership, corporation or syndicate, and under the laws of what State or county organized; (2) the location of its principal place of business, the postoffice address of the president, general manager, or executive officer or officers; (3) the name and postoffice address of the chief officer or managing agent of the company in Tennessee; (4) the gross receipts of its business as a whole and also of its business done within the State, and operating expenses for the preceding fiscal year; (5) the total capital stock, number of shares issued or outstanding, the

par face value thereof, and in case no shares of stock are issued, in what manner its capital is divided, and its holdings evidenced; (6) the market value of said shares of stock or capital on the 10th day of January next preceding, or if said stock or capital have no market value, then the actual value; (7) the real estate, buildings, machinery, fixtures, appliances and personal property owned by said company which is actually located within the State of Tennessee, the actual value thereof and the counties or municipalities of the State in which the same are located; (8) real estate, together with the permanent improvements thereon, situated outside of the State of Tennessee and not directly used in the conduct of the business within the State, the purpose for which it is used, its value and the sum at which it is assessed for taxation in the locality where situated; (9) the bonded indebtedness and the market value thereof, if it has such, otherwise its actual value. In addition to the foregoing information to be given by each and every owner of property assessable under this Act, said statement shall contain information as follows:

* * *

From pipe line companies (meaning thereby companies owning a pipe line or pipe lines not wholly situated in any one county in the State, whether such pipe lines be used for the transmission of oil or gas), the length, size and value of lines, the number and capacity of tanks, showing the county and incorporated towns within which the same are located. From gas companies, all its property, real, personal and mixed, owned or leased, setting forth therein the length in miles of the entire system of mains, conduits, number of services, governors, meters and transformers in each incorporated town and county, together with the value of the whole, the capital stock, gross receipts from business in this State during the preceding fiscal year and the gross receipts from all sources, and the location, value and description of all other property, real, personal and mixed in this State. * * * The schedules to be returned must be sworn to by the President or the Secretary of the company. Said schedules and statements shall be verified by the affidavit of the owner or receiver of such property, or if owned by a corporation or stock company, the president or secretary shall make such affidavit. The owner of any such property refusing or failing to file such schedules and statements shall be deemed to have waived the mode and manner of ascertaining the value of such property and shall not be permitted to be heard in opposition to the valuation fixed upon said property by the Railroad Commission, and shall in addition be liable to a penalty of \$100.00 for each and every day which such owner is delinquent in filing said statement or schedule. It shall be the duty of the Attorney General of the State, upon the request of the Railroad Commission, to sue for and collect the same before any court of competent jurisdiction in the same manner as any other debt, penalty or forfeiture is now collected by law.

Sec. 3. Be it further enacted:

That the Railroad Commission shall require in addition to the schedules and statements above referred to, such additional information, and take such additional evidence as to the value of any property to be assessed by them as may be deemed proper, but such additional evidence shall be reduced to writing and opportunity afforded, if desired, to the owner to submit additional evidence or counter-evidence to that required by said Railroad Commission, and the records of the said Railroad Commission shall at all times be open to inspection of the owner or owners of any property assessable under the provisions of this Act. To ascertain any of the foregoing facts, the Railroad Com-

mission are hereby vested with the power to summon before them any person or persons, call for any books, administer oaths, examine any such person or books touching any matters deemed necessary to enable them to arrive at the correct value of such property, and they may issue summons to any county in the State to be executed by the sheriff thereof. Any person called on to testify shall be guilty of perjury if he shall testify falsely and any person failing to attend when summoned shall be guilty of a misdemeanor punishable by a fine of \$100.00 and thirty days in jail.

Sec. 4. Be it further enacted:

That upon examination of every such schedule and statement and all other evidence taken by them, the said Railroad Commission shall proceed to ascertain and determine the value of said property within the State for taxation and assess the same accordingly, taking into consideration the capital stock, corporate property, franchises and gross receipts, the market value of the shares of stock and bonded indebtedness, and such other evidence as is afforded by said statements and schedules or other evidence taken to enable them to fairly and equitably fix the actual cash value of the properties of such persons.

Sec. 5. Be it further enacted:

It is hereby declared that the proportionate share of the value of the intangible property of such companies as do business in this and other States, growing out of the use of their tangible property in this State under their franchises, privileges and contracts, shall have its situs in this State and in the several counties and municipalities thereof in which they exercise their rights, provided that property of any such owner located outside of the State which is not directly used in the business to which the property in the State is devoted, shall not enter into the value of the property within the State to be assessed.

Sec. 6. Be it further enacted:

That the franchises, choses in action, intangible property and personal property within the State, but having no actual situs therein, of each company to be assessed under this Act, and, in addition thereto, * * * (e) the pipe line or lines of pipe line companies, shall be known as distributable property, and shall be valued separately from the other property of said companies, respectively; after ascertaining the value of such distributable property wherever situated within the State, and after having deducted from its value one thousand dollars, the Railroad Commission shall divide the remainder * * * by the total number of miles and length of pipe lines in the case of pipe line companies, and the result thereof shall be the value per mile of such distributable property of said companies, respectively, for the purpose of assessment and taxation, and the value per mile of such distributable property shall be multiplied by the number of miles in this State, and the product thereof shall be the sum to be assessed against such distributable property for State purposes, and the value per mile so ascertained shall be multiplied by the number of miles in each county or incorporated town or city, and the product thereof shall be that amount to be assessed against such distributable property for said counties and incorporated towns. * * *

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Sec. 16. Be it further enacted:

That if at any time it shall appear to the satisfaction of the Governor of Tennessee that any * * * pipe line company, or other company, whose property is assessable under this Act, is inadequately assessed, or that its property has been omitted from taxation, or any new line has been constructed it shall

be his duty and he shall have the power to convene the said Railroad Commission to make the proper assessment and they shall have the power to do so, and their assessment shall go to the Board of Equalization as upon appeal upon the records, as it is provided in cases of assessment in the first instance. * * * neither the Comptroller of the Treasury nor any other officer than said Railroad Commission shall have the power or authority to back-assess or assess any * * * pipe line * * * gas * * * company assessed under this Act.

* * * * *

TEXAS.

CONTENTS.

	Page.
Oil companies.....	300
Leasing and prospecting for gas.....	300
Impounding salt water.....	301
Storing, dealing in, and transporting oil and gas.....	302
Oil and gas.....	306
Prospecting for, in public lands and waters.....	306
Oil and gas lands.....	312
Partition.....	312
Purchase and patent.....	312
Oil and gas wells.....	313
Drilling regulations—Preventing escape.....	313
Plugging wells—Duty and penalty.....	315
Oil leaseholds and oil properties.....	318
Liens on.....	318
Pipe lines.....	320
Common carriers—Rights of way—Regulations.....	320

OIL COMPANIES.

LEASING AND PROSPECTING FOR GAS.

IMPOUNDING SALT WATER.

STORING, DEALING IN, AND TRANSPORTING OIL AND GAS.

LEASING AND PROSPECTING FOR GAS.

LAWS 1915, P. 225.

MARCH 31, 1915.

CHAPTER 144.

AN ACT to amend Title 25, Chapter 2, Article 1121, subdivision 16, Revised Statutes of Texas, 1911, providing for the creation of private corporations for the establishment and maintenance of oil companies with authority to contract for, lease and purchase; of the right to prospect for, develop and use coal and other minerals; by adding thereto the right to contract for the lease and purchase, of the right to prospect for, develop and use gas; and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That Article 1121, Subdivision 16, of Title 25, Chapter 2, of the Revised Statutes of the State of Texas, 1911, be amended so as to hereafter read as follows:

“For the establishment and maintenance of oil companies with the authority to contract for the lease and purchase of the right to prospect for, develop and use coal and other minerals, petroleum and gas; also the right to erect, build and own all necessary oil tanks, cars and pipes necessary for the operation of the business of same.”

Sec. 2. All private corporations heretofore created under the provisions of Subdivision 16, Article 1121, Chapter 2, Title 25, Revised Statutes of Texas of 1911, shall, in addition to the powers therein enumerated, have the power to contract for the lease and purchase of the right to prospect for, develop and use gas; also erect, build and own all necessary oil tanks, cars and pipes necessary for the operation of the business of same.

Sec. 3. The fact that there is no authority for the creation of corporations to contract for the lease and purchase of right to prospect for, develop and use gas creates an emergency and an imperative public necessity that the constitutional rule requiring that bills be read on three several days be suspended, and said rule is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

NOTE: Sections 1 and 2 of this act are parts of Article 1121, Vernon's Texas Civil & Criminal Statutes, 1918 Supplement.

IMPOUNDING SALT WATER.

LAWS 1918, P. 122.

APRIL 2, 1918.

CHAPTER 49.

AN ACT to provide for the creation of corporations to prevent the pollution of streams and to that end empowering such corporations to gather, impound and store water containing salt or other substances produced in the drilling or operation of oil wells or other wells; and authorizing such corporations to charge reasonable rates for service; and prohibiting discrimination between patrons; and conferring upon such corporations the power of condemnation of necessary land and rights; authorizing corporations interested in the proper disposition of such waters to subscribe for, own and vote stock in corporations created hereunder; and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That in the mode provided in Chapter 2 of Title 25 of the Revised Statutes of Texas of 1911 corporations may be created for the purpose of gathering, storing, and impounding water containing salt or other substances produced in the drilling and operation of oil and other wells, and to prevent the flow thereof into streams at times when the latter may be used for irrigation.

Sec. 2. Such corporations, in addition to the general powers conferred by such title upon private corporations, may acquire, own, and operate ditches, canals, pipe lines, levees, reservoirs, and their appliances appropriate for the gathering, impounding or storage of such water, and for the protection of such reservoirs from inflow or damage by surface waters; with further power to condemn lands and rights necessary therefor under like procedure as is provided in condemnation by railroads; and also to cross with their ditches, canals, and pipe lines under any highways, canals, pipe lines, railroads, and tram or logging roads; Conditioned that the use thereof be not impaired longer than essential to the making of such crossings; provided that no right is conferred to pass through any cemetery or under any residence, school house or other public building nor to cross any street or alley of any incorporated city or town without the consent of the authorities thereof.

Sec. 3. In the localities in which they operate and to the extent of the facilities provided, such corporations shall serve all producers of such waters in proportion to the needs of such producers, at fair and reasonable charges, and without discrimination between such producers under like conditions. Corporations interested in the proper disposition of such waters may subscribe for, own, and vote stock in the corporations which may be created hereunder.

Sec. 4. The importance of this Act, and the absence of any law upon the subject, and the necessity for the immediate relief afforded thereby creates an emergency and an imperative public necessity that the constitutional provision

requiring bills to be read on three several days, be suspended, and it is so suspended, and that this Act be in force and effect from and after its passage, and it is so enacted.

Approved April 2, 1918.

Became a law April 2, 1918.

STORING, DEALING IN, AND TRANSPORTING OIL AND GAS.

LAWS 1915, P. 82.

MARCH 6, 1915.

CHAPTER 41.

AN ACT providing for the enlargement of the powers of corporations organized under Chapter 24, of Title 25, of the Revised Civil Statutes of 1911, for the purpose of storing, transporting, buying and selling oil and gas, salt, brine and other mineral solutions in this State, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. Corporations heretofore or hereafter organized under the provisions of Chapter XXIV of title 25 of the Revised Civil Statutes of 1911, and which shall file with the Secretary of State a duly authorized acceptance of the provisions of this Act, are hereby declared to have, in addition to the powers enumerated in said chapter, the power to carry on the business therein authorized outside of as well as within this state; to own and operate refineries, casing and treating plants, sales offices, warehouses, docks, ships, tank cars and vehicles necessary in the conduct of their business; and to cause the formation of corporations outside of this state, not exceeding one in any state, territory or foreign country, whose purposes and powers exercised shall be only those conferred by law upon the forming or holding corporation as incorporated under the laws of Texas, and own and hold the stock of such corporations when the effect of such formation or stock holding is not substantially to lessen competition or otherwise to violate laws prohibiting trusts and monopolies and conspiracies in restraint of trade.

Sec. 2. The present condition of the law on this subject and the importance of the change herein contemplated creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be and the same is hereby suspended, and that this act become a law from and after its passage, and it is so enacted.

Approved March 6, 1915.

Takes effect 90 days after adjournment.

LAWS 1899, P. 202.

MAY 15, 1899.

CHAPTER CXVII.

AN ACT to provide for the organization of corporations for the purpose of the storage and transportation, and purchase and sale of oil, gas, salt, brine and other mineral solutions; to provide the manner and method of organizing such corporations; to prescribe the rights, powers, privileges and duties of such corporations; to authorize such corporations to conduct, operate and maintain pipe lines, tanks, pump stations, buildings, machinery, apparatus and devices as may be necessary; to own, use and occupy lands, easements, buildings and structures; to empower such corporations to condemn lands and other property for the uses and purposes of such corporations, and to provide the methods therefor; issue stock and bonds and to borrow money and mortgage its franchises and property.

Be it enacted, etc.:

* * * * *

NOTE.—The sections of this Act were carried into the Revised Civil Statutes 1911, as Chapter 24, Title 25, Articles 1303–1308, inclusive. These Articles, 1303 to 1308, inclusive, were amended by the act of April 7, 1915, and read as follows:

LAWS 1915, P. 259.

APRIL 7, 1915.

CHAPTER 152.

AN ACT to amend Articles 1303, 1304, 1305, 1306, 1307, and 1308, Chapter 24, Title 25, Revised Civil Statutes of Texas of 1911, providing for the formation of corporations, regulating their powers, giving them the right of condemnation, the power to borrow money, preventing unlawful discrimination, and providing for the formation of corporations for the purpose of storing, transporting, buying, selling, and manufacturing sand and clay for the manufacture of clay products; and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That Articles 1303, 1304, 1305, 1306, 1307, and 1308, of Chapter 24, Title 25, of the Revised Civil Statutes, be hereafter amended to read as follows:

Article 1303. Any number of persons, not less than three, may engage themselves into a corporation for the purpose of storing, transporting, buying and selling of oil, gas, salt, brine and other mineral solutions; also sand and clay for the manufacture and sale of clay products.

Article 1304. The manner and method of organizing such corporations shall be the same as provided by law for the organization of private corporations in Chapter 2, Title 25, of the Revised Civil Statutes of 1911, and the provisions of this Act shall apply to all corporations already organized for any purposes of this Act.

Article 1305. Such corporations shall have power to store and transport oil, gas, brine and other mineral solutions, and also sand, clay and clay products, and to make reasonable charges therefor; to buy, sell and furnish oil and gas for light, heat and other purposes; to lay down, construct, maintain and operate pipe lines, tubes, tanks, pump stations, connections, fixtures, storage houses and such machinery, apparatus, devices and arrangements as may be necessary to operate such pipes and pipe lines between different points in this State; to own, hold, use and occupy such lands, rights of way, easements, franchises, buildings and structures as may be necessary to the purpose of such corporations. For the transportation of sand and clay, corporations shall have the right to construct, maintain and operate aerial tramways, a system consisting of wire cables supported by wooden, concrete or steel towers, over which buckets or carriers are propelled along and over said wire cables; and may own such connections, fixtures, guy lines and all necessary devices, storage houses and such machinery, apparatus and arrangements as may be necessary to operate such aerial tramways between different points in this State; to own, hold, use and occupy such lands, rights of way, easements, franchises, buildings and structures as may be necessary to the purposes of such corporation.

Article 1306. Such corporation shall have the right and power to enter upon, condemn and appropriate the lands, rights of way, easements and property of any person or corporation, and shall have the right to lay its pipes and pipe lines, which shall not be placed at a distance within three hundred feet of and farm residence or barn, wire cables, supporting towers and connections for same for the construction of aerial tramways, across and under or over any public road or under or over any railroad, railroad right of way, street railroad, canal or stream in this State, and to lay its pipes and pipe lines and wire cables across or along or over and under any street or alley in any incorporated city or town in this State, with the consent and under the direction of the board of aldermen or city council or commission of such city or town. The manner and method of such condemnation shall be the same as is provided by law in the case of railroads; provided, that such pipe lines or aerial tramways shall not pass through or under or over any cemetery, church, or college, school

house, residence, business or store house, or through or under or over any buildings in this State, except by the consent of the owner or owners thereof; and, provided further, that all such pipes and pipe lines and aerial tramways, when the same shall pass through or over the cultivated or improved lands of another, shall be well buried under ground at least twenty inches under the surface, and in case of aerial tramways over and above at a distance of at least twenty-five feet from the level of the ground, and such surface shall be properly and promptly restored by such corporation unless otherwise consented to by the owner or owners of such land; provided, further, that if such pipe or pipe lines shall be laid over or along any uncultivated or unimproved lands of another, and such lands shall thereafter become cultivated or improved, such pipe or pipe line shall be buried by said corporation as hereinbefore provided within a reasonable time after notice by the owner of said lands, or his agent, to said corporation, or any agent thereof; and, provided further, that whenever such pipe or pipe line or aerial tramway shall cross any public road or highway, railroad, street railroad or street or alley, the said pipes and pipe lines or aerial tramway cables shall be so buried and covered, or elevated in case of aerial tramways, as not to interfere with the use and occupancy of such road, highway, street or alley by the public, or use and occupancy of such railroad or street railroad by the owner or owners thereof; and, provided further, that such pipe line so laid shall not exceed eight inches in diameter.

NOTE: Article 1307 was amended by the Act of February 20, 1917, and the amended section reads as follows:

LAWS 1917, P. 54.

FEBRUARY 20, 1917.

CHAPTER 31.

AN ACT to amend Article 1307, Chapter 24, Title 25, Revised Civil Statutes of 1911, as amended by Chapter 152 of the General Laws passed by the Thirty-fourth Legislature, approved April 7, 1915, relating to corporations formed for the purpose of storing, transporting, buying and selling oil and gas and other products, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That Article 1307, Chapter 24, Title 25, Revised Civil Statutes of 1911, as amended by Chapter 152, of General Laws passed by the Thirty-fourth Legislature, approved April 7, 1915, be further amended to read as follows:

Article 1307. Such corporation shall have the right to borrow money to an amount not in excess of its paid up capital stock, as now provided by law, to issue stock and preferred stock, to mortgage its franchises and property to secure the payment of any debt contracted for any purposes of such corporation, and shall possess all the rights and powers of corporations for profit in this State wherever the same may be applicable to corporations of this character. It may also engage in the oil and gas producing business, prospecting for and producing oil and gas and owning and holding lands, leases and other property for said purposes and subject to the provisions of Chapter 4 of this title; provided that no corporation shall exercise these powers while owning or operating oil pipe lines in this State. Any corporation heretofore or hereafter organized under this Chapter, and owning or operating oil pipe lines in this State, shall separately incorporate such oil pipe lines with the consent of a majority in amount of its stockholders and subject to the restrictions hereinafter imposed, whereupon, in addition to other powers which it may possess, it shall then acquire the right and power to engage in said oil and gas producing business. Such separate incorporation shall be accomplished by the organization of another

pipe line corporation under this Chapter and the sale and conveyance to it of such oil pipe lines of the organizing company. In case of the ownership also of oil pipe lines beyond the borders of this State additional pipe line corporations may be organized outside of the State and such oil pipe lines located outside of the State may be sold and conveyed to them. In every case herein provided for the organizing corporation may subscribe for and own the capital stock of the organized pipe line corporation without being precluded from engaging in said oil and gas producing business. In lieu of engaging directly in the oil and gas producing business in any State or country a corporation organized under this chapter and authorized to engage in said producing business may own the stock of other corporations engaged therein, provided that it shall not own the stock of more than one producing corporation, or one pipe line corporation, organized under the laws of this or any other single State. Nor shall any corporation organized in any other State or country be permitted to own or operate oil pipe lines or engage in the oil producing business in this State when the stock of such corporation is owned in whole or in part by a corporation organized under this chapter. But the provisions hereof shall not preclude the ownership or operation by any corporation of private pipe lines in and about its refineries, fields or stations, even though such corporation may be engaged in the producing business. And none of these provisions shall be construed as limiting, modifying or repealing any part of the law regulating oil pipe lines, or as authorizing any ownership or transaction the effect of which would be to substantially lessen competition or to violate any law or laws of this State prohibiting trusts and monopolies and conspiracies in restraint of trade or to violate any provision of the anti-trust laws of this State.

NOTE: Here follow the remaining sections of the original act.

Article 1308. It shall be unlawful for any corporation organized under this Act to discriminate against any person, corporation, firm, association or place in the charge for such storage or transportation, or in the service rendered; but shall receive, store or transfer oil or gas, salt, sand and clay for any person, corporation, firm or association upon equal terms, charges and conditions with all other persons, corporations, firms or associations for like service.

Sec. 2. The fact that it is necessary for the proper conduct of business for the law to allow the formation of corporations for the storing, buying, transporting and selling the products of industry, and that business is being hampered and made difficult by the lack of such laws, creates an emergency and an imperative public necessity necessitating the rule which requires that all bills be read on three several days be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

NOTE: All the articles of the amendatory article of the act of April 7, 1915, and the amendatory article of the Act of February 20, 1917, are given corresponding numbers in Vernon's Texas Civil & Criminal Statutes, 1918 Supplement.

24918°—21—20

OIL AND GAS.

PROSPECTING FOR IN PUBLIC LANDS AND WATERS.

LAWS 1917, P. 158.

MARCH 16, 1917.

CHAPTER 83.

AN ACT to amend Chapter 173 of the Regular Session of the Thirty-third Legislature approved April 9, 1913, relating to the prospecting for and the development of the minerals and other substances in the public land, public islands and public waters and river beds and channels owned by the State, and in the unsold land belonging to the public free school fund, the University fund and the several asylums fund and in such of said land as has heretofore been sold or may hereafter be sold with the reservation of the minerals and other substances therein to the fund to which the land belongs; providing the royalty and other sums and compensation to be paid to the State and owners of the surface, and appropriating the proceeds to certain funds; providing for ingress and egress; providing one may pay cash for mineral claims, and obtain patents and change former claims to rights under this Act; providing for the adoption of rules and regulations by the Commissioner of the General Land Office, repealing the remaining portion of this said Chapter 173 which may not be amended and all other statutes in conflict with this Act, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. All of Chapter 173 of the Regular Session of the Thirty-third Legislature approved April 9, 1913, shall be so amended as to hereafter read as follows:

Sec. 1. All public school, University and Asylum land and other public lands, fresh water lakes, river beds and channels, islands, bays, marshes, reefs and salt water lakes belonging to the State and all lands which may hereafter be so owned and all of said lands which have heretofore been sold or disposed of by the State or by its authority with a reservation of minerals or mineral rights therein as well as all lands which may hereafter be sold with the reservation of minerals or mineral rights therein, and lands purchased with a relinquishment of the minerals therein, shall be included within the provisions of this Act and shall be open to the prospecting for and the development of the minerals and substances known as gold, silver, cinnabar, lead, tin, copper, zinc, platinum, radio-active minerals, tungsten, ores of aluminum, coal, lignite, iron ore, kaolin, fire clays, barite, marble, PETROLEUM, NATURAL GAS, gypsum, nitrates, asbestos, marls, salt, onyx, turquoise, mica, guano, bismuth and bismuth bearing minerals, asphalt, potash compounds, sulphur, graphite, magnesia, fuller's earth and molybdenum and molybdenum bearing minerals upon the terms and conditions provided in this act.

Sec. 2. Any person or association of persons, corporate or otherwise, being a citizen of the United States or having declared an intention of becoming such, desiring to obtain the right to prospect for and develop the minerals and substances named above that may be in any of the areas, included herein may do so under the provisions of this Act, together with such rules and regulations as may be adopted by the commissioner of the General Land Office relative thereto and necessary for the execution of the purposes of this Act.

Sec. 3. One desiring to obtain the right to prospect for and develop petroleum oil and natural gas that may be in any of the surveyed areas included herein shall file with the county clerk an application in writing giving a designation of same sufficient to identify it. The county clerk shall, upon receipt of one dollar as a filing fee, file and record the application and note the same on his record of surveys opposite the entry of the proper survey, giving the time of

filing. When one has obtained four sections or that equivalent eligible to be embraced in one permit such applicant shall not obtain any more land within two miles thereof, but if one obtains less than four sections eligible to be embraced in one permit such one may obtain such additional area within two miles of the other area as will equal four sections. One shall not obtain more than one thousand acres within one mile of a well producing petroleum.

Sec. 4. One desiring to obtain the right to prospect for and develop petroleum and natural gas in any of the State's unsurveyed areas named in this Act shall file with the county surveyor an application in writing for each area applied for, giving a designation of same sufficient to identify it, but such area shall not exceed 2560 acres. Upon receipt of one dollar filing fee the surveyor shall file and record the application.

Sec. 5. When the Commissioner receives an application that was filed with the county clerk or an application that was filed with the surveyor and the field notes and plat, one dollar filing fee and ten cents per acre for each acre applied for and a sworn statement by the applicant showing what interest he has in other permit, lease or patent issued under this Act and in good standing, he shall file same, and if upon examination the application or the application and field notes are found correct and the area applied for is within the provisions of this Act the Commission shall issue to the applicant or his assignee a permit conferring upon him an exclusive right to prospect for and develop petroleum and natural gas within the designated area for a term not to exceed two years.

NOTE: Section 6 was amended by the Act of March 31, 1917, Laws 1917, p. 382, and the amended section reads as follows:

Sec. 6. Before the expiration of twelve months after the date of the permit the owner thereof shall in good faith begin actual work necessary to the physical development of said area and if petroleum or natural gas is not sooner developed in commercial quantities the owner or manager shall, within thirty days after the expiration of one year from the date of the permit file in the General Land Office a sworn statement supported by two disinterested credible persons that such actual work was begun within the first twelve months aforesaid and that a bona fide effort to develop the said area was made during the twelve months preceding the filing of the statement and showing what work was done and expenditures incurred and whether or not petroleum or natural gas had been discovered in commercial quantities. A failure to file the statement herein provided for within the time specified or the filing of a statement untrue or false in material matters shall subject the permit to forfeiture and the termination of the rights of the owner. The owner of a permit shall not take, carry away or sell any petroleum or natural gas before obtaining a lease therefor; provided, such quantity as may be necessary for the continued development of the area before obtaining a lease may be used without accounting therefor.

Sec. 7. If at any time within the life of a permit one should develop petroleum or natural gas in commercial quantities the owner or manager shall file in the General Land Office a statement of such development within thirty days thereafter, and thereupon the owner of the permit shall have the right to lease the area included in the permit upon the following conditions:

1. An application and a first payment of two dollars per acre for a lease of the area included in the permit shall be made to the Commissioner of the General Land Office within thirty days after the discovery of petroleum or natural gas in commercial quantities.

2. Upon the payment of two dollars per acre for each acre in the permit a lease shall be issued for a term of ten years or less, as may be desired by the applicant, and with the option of a renewal or renewals for an equal or shorter period, and annually after the expiration of the first year after the date of the lease the sum of two dollars per acre shall be paid during the life of the lease, and in addition thereto the owner of the lease shall pay a sum of money equal to a royalty of one-eighth of the value of the gross production of petroleum. The owner of a gas well shall pay a royalty of one-tenth of the value of the meter output of all gas disposed of off the premises.

3. The royalties shall be paid to the State through the Commissioner of the General Land Office at Austin, monthly during the life of the lease. All payments shall be accompanied by the sworn statement of the owner or manager or other authorized agent showing the amount produced since the last report and the market value of the output and a copy of all pipe line receipts, tank receipts, gauge of all tanks into which petroleum may have been run, or other checks and memoranda of amount put out or into pipe lines or tanks or pools. The books and accounts, the receipts and discharges of all pipe lines, tanks and pools and gas lines and gas pipes and all other matters pertaining to the production, transportation and marketing of the output shall be open to the examination and inspection at all times by the Commissioner of the General Land Office or his representative or any other person authorized by the Governor or Attorney General to represent the State. The value of any unpaid royalty and any sum due the State under this Act upon any lease shall become as prior lien upon all production produced upon the leased areas and the improvements situated thereon to secure the payment of any royalty and any sum due the State arising under the operation of any portion of this Act.

4. The permit or lease shall contain the terms upon which it is issued including the authority of the Commissioner to require the drilling of wells necessary to offset wells drilled upon adjacent private land, and such other matters as the commissioner may deem important to the rights of the applicant or the State.

Sec. 8. In the event the surface of an area included within the operations of this Act has heretofore been or may hereafter be acquired by one prior to the filing of an application under the provisions herein such area shall nevertheless be subject to prospect and lease as provided herein but the owner of the permit or lease shall pay to the owner of the surface annually in advance during the life of the permit or lease, ten cents per acre and the sum so paid and accepted by the surface owner shall be full compensation for all damages to the surface.

Sec. 9. Every person or association of persons, corporate or otherwise, applying for a permit, lease or patent shall file with the application a sworn statement showing what interest the applicant has in any other permit or lease issued by the State and in good standing at the date of the statement.

NOTE: The original sections of this act correspond to the articles of Vernon's Texas Civil & Criminal Statutes, 1918 Supplement, as follows: Section 1, Art. 5904; Sec. 2, Art. 5904a; Sec. 3, Art. 5904b; Sec. 4, Art. 5904c; Sec. 5, Art. 5904d; Amended Sec. 6, Art. 5904e; Sec. 7, Art. 5904g; Sec. 8, Art. 5904h; Sec. 9, Art. 5904j.

LAWS 1917, P. 158.

MARCH 16, 1917.

COAL AND LIGNITE.

NOTE: Sections 10 to 12, inclusive, relate to coal and lignite and are not given.

OTHER MINERALS.

NOTE: Sections 13 to 15, inclusive, relate to minerals other than those named above and are not given.

GENERAL PROVISIONS.

Sec. 16. The general provisions in this and the following section shall apply to all the foregoing provisions so far as applicable.

Surveyed land within the meaning of this Act shall include all tracts for which there are approved field notes on file in the General Land Office and eighty acre tracts and multiples thereof of such surveys.

Unsurveyed areas within the meaning of this Act include all areas for which there are no approved field notes on file in the General Land Office.

All applications for surveyed land shall be filed with the clerk of the county in which the tract or a portion thereof is situated or with the clerk of the county to which such county may be attached for judicial purposes and accompanied by one dollar filing fee, and it shall be filed in the General Land Office within thirty days after it was filed with the county clerk and accompanied by one dollar filing fee.

All applications for unsurveyed areas shall be filed with the county surveyor, or his deputy, of the county in which the area or a part thereof is situated, accompanied by one dollar filing fee, but if such county has no surveyor then the application shall be filed with the clerk of the proper county and by him recorded in the surveyor's records, and in that event the area may be surveyed by the surveyor of the nearest county as now provided by law. The area shall be surveyed within ninety days and the application, field notes and plat shall be filed in the General Land Office, accompanied by a filing fee of one dollar, within one hundred days after the date of the filing of the application.

The payment per acre required to be made before the issuance of a permit shall be paid annually thereafter during the life of the permit or lease.

A separate written application shall be made for the area desired in a permit. No permit, lease or patent shall embrace the area in two or more applications.

No application, permit, lease, or patent shall embrace a divided area.

Whole tracts of surveyed land may be applied for as a whole or in eighty acre tracts or multiples thereof without furnishing field notes therefor.

A duplicate of every permit and lease shall be kept in the General Land Office.

The area in each permit shall be developed independently of other areas.

When one desires a lease or patent any one or more whole tracts in the permit may be abandoned by relinquishment filed in the General Land Office as herein provided and thereupon obtain a lease or patent upon the remaining area; provided such remaining area is in a solid body.

An owner may relinquish a permit or lease at any time by having the deed of relinquishment acknowledged, recorded by the proper county clerk and filed in the General Land Office accompanied by one dollar filing fee. The Commissioner of the General Land Office shall mail notice to the proper county clerk of the filing of the relinquishment and when said notice has had time through due course of mail to reach said clerk the area shall be subject to applications as in the first instance.

Sec. 17. The proceeds arising from the activities under this Act which affects land belonging to the permanent Public Free School Fund, the permanent University Fund and the permanent fund of the several asylums shall be credited to the permanent fund of said institutions and the proceeds arising from the activities affecting other areas shall be credited to the Game, Fish and Oyster fund. (As amended by the Act of October 16, 1917.)

Sec. 18. The owner of a file or permit or lease under any provision of this act may sell same and the rights secured thereby at any time, also fix a lien of any kind thereon to any person, association of persons, corporate or otherwise, who may be qualified to receive a permit or lease in the first instance; provided, the instrument evidencing the sale or lien shall be recorded in the county where the area or part thereof is situated or in the county to which such county may be attached for judicial purposes and same shall be filed in the General Land Office within sixty days after the date thereof accompanied with a filing fee of one dollar, and if not so filed the contract evidenced by said instrument shall be void and the obligations therein assumed shall not be enforceable; provided further, a sublease contract need not be filed in the General Land Office.

Sec. 19. If a permit or lease should be issued upon a statement by the applicant which is false or untrue in material matters, or should the owner of a permit fail or refuse to begin in good faith the work necessary to the development of the area within the time required, or should the owner of a permit fail or refuse to proceed (proceed) in good faith and with reasonable diligence in a bona fide effort to develop an area included in his permit after having begun the development, or should the owner of a permit fail or refuse to apply for a lease within the prescribed time, or should the owner of a lease fail or refuse to proceed in good faith and with reasonable diligence and in a bona fide effort to develop, operate and put out the mineral or other substance at any time during the life of the lease, or should the owner of a lease fail or refuse to make proper remittances in payment of royalty or other payments or fail or refuse to make the proper statement, or fail to furnish the required evidence of the output and market value and material matters relating thereto when requested, or fail to make the annual payment on the area when requested so to do the permit or lease, as the case may be, shall be subject to forfeiture, and when the Commissioner is sufficiently informed of the facts which subject the permit or lease to forfeiture he may declare same forfeited by proper entry upon the duplicate permit or lease kept in the General Land Office. When forfeiture has been declared a notice of that fact shall be mailed to the proper county clerk and the area shall be subject to the application of another than the forfeiting owner when the notice has had time to reach the county clerk through due course of mail; provided, the Commissioner may exercise large discretion in the matter of requiring one to develop gas wells, and provided further, that all forfeitures may, within the discretion of the Commissioner be set aside and all rights reinstated before the rights of another intervene.

Sec. 20. An owner of any claim for any mineral or substance included in this Act may fell and remove for building or mining purposes any timber upon any of the unsold areas included within this Act, and shall also, have the right to occupy within the limits of his application, permit or lease, so much of the surface thereof as may be necessary for the development of the minerals and substances therein, and shall have the right of ingress to and from the area embraced in the file, permit, lease or patent. Ten cents per acre shall be paid to the owner of the surface and when accepted by the owner, it shall be deemed full compensation for such damages as may be occasioned to the surface through the occupancy and operation by the owner of the permit, lease or patent.

Sec. 21. Neither the filing of an application under any provision of this Act nor the issuance of a permit or lease on any of the unsold land included herein shall prevent the sale of the surface without the minerals and in case of such sale subsequent to the posting of any notice or the filing of an application the purchaser shall not be entitled to the ten cents per acre that is provided for

owners of the surface at the time of filing nor shall such owner be entitled to any damages that may be occasioned by the working of any area.

Sec. 22. All development in water or on islands, marshes, reefs or river beds and channels shall be done under such regulations as will prevent the pollution of the water and for the prevention of such pollution the Commissioner of the General Land Office may call upon the Game, Fish and Oyster Commissioner for assistance in the adoption and enforcement of rules and regulations for the protection of the waters from such pollution. The Commissioner of the General Land Office may cancel a claim, location, file, permit or lease or patent for a failure or refusal of the owner to comply with such rules and regulations as may be adopted.

Sec. 23. Should any mineral or substance within the provisions of this Act, other than those included in the permit or lease under which one is operating, be discovered while the area is being worked for the minerals and substances embraced in such permit or lease, the owner thereof shall have a preference right for sixty days after such discovery in which to file on the area allowed one for such mineral or other substance by complying with the provisions of this Act relating to the mineral or substance so discovered but shall not be required to pay either of the additional ten cents per acre to the State or the owner of the surface, and the remaining portion of said area shall be subject to the application of others in the same manner as if there were no pre-existing file thereon.

Sec. 24. If the owner of a claim upon any mineral or other substance named in this Act, other than petroleum and natural gas which has been acquired under any previous statute, should desire to accept the provisions of this Act and operate hereunder he may do so by filing a declaration to that effect in the General Land Office together with the payment required in the particular instance and obtain a permit or lease by complying with the provisions hereof relating thereto. The rights under such acceptance shall begin from the date the declaration is filed and the owner shall have the same rights thereafter as is accorded those who make original filings under this Act.

Sec. 25. At any time during the life of a permit but prior to accepting a lease upon any area for any mineral or other substance included within the provisions of this Act, except petroleum and natural gas, the owner of a permit may elect to pay one hundred dollars per acre for the area embraced in his permit and obtain, under the rules governing the issuance of patents to land, a patent for all the minerals that may be in such area except petroleum and natural gas in lieu of the payment of the royalty as provided in this Act; provided, however, one shall pay the prescribed royalty on all minerals and substances put out and disposed of while developing the area prior to obtaining a lease or patent.

Sec. 26. The Commissioner of the General Land Office shall have the general supervision of all matters necessary for the proper administration of this Act and he is authorized to adopt rules and regulations and to alter or amend them from time to time as he may deem necessary for the protection of the interests involved and not inconsistent with the provisions herein.

Sec. 27. Rights acquired under this Act shall be subject to taxation as is other property.

Sec. 28. Chapter 173 approved April 9, 1913, and all other laws and parts of laws in conflict with this Act are hereby repealed.

Sec. 29. The fact that portions of the mineral statute are so incongruous and difficult of interpretation as to be almost inoperative and the fact that a law clear in its terms and ample to secure the development of the State's mineral wealth is badly needed and the near approach to the close of the session creates

an emergency and an imperative public necessity exists that the constitutional rule which requires bills to be read on three several days in each house be suspended and that this take effect from and after its passage and it is so enacted.

Approved March 16, 1917.

Takes effect 90 days after adjournment.

NOTE: The original sections of this act under the title, General Provisions, correspond to the articles under the same title of Vernon's Texas Civil and Criminal Statutes, 1918 Supplement, as follows: Sec. 16, Art. 5904p; Sec. 17, Art. 5904q; Sec. 18, Art. 5904r; Sec. 19, Art. 5904s; Sec. 20, Art. 5904ss; Sec. 21, Art. 5904t; Sec. 22, Art. 5904tt; Sec. 23, Art. 5904u; Sec. 24, Art. 5904uu; Sec. 25, Art. 5904v; Sec. 26, Art. 5904vv; Sec. 27, Art. 5904w.

OIL AND GAS LANDS.

PARTITION.

PURCHASE AND PATENT.

PARTITION.

LAWS 1917, P. 295.

MARCH 28, 1917.

CHAPTER 105.

AN ACT to amend Article 6096, Chapter 1, Title 101, of the Revised Civil Statutes of the State of Texas, pertaining to partitions and authorizing the partition of any real estate, or of any interest therein, or of any mineral, coal, petroleum or gas lands, whether held in fee or by lease or otherwise, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That Article 6096, Chapter 1, Title 101, of the Revised Civil Statutes of the State of Texas is hereby so amended that it shall hereafter read as follows:

"Article 6096. Any joint owner or claimant or any real estate or of any interest therein or of any mineral, coal, petroleum, or gas lands, whether held in fee or by lease or otherwise, may compel a partition thereof between the other joint owners or claimants thereof in the manner provided in the succeeding articles of this chapter."

Sec. 2. From the fact that there is no law by which joint owners or claimants of mineral, coal, petroleum, or gas lands, whether held in fee or by lease, can compel partition thereof, an emergency is created and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days and it is hereby suspended and this act shall take effect and be in full force from and after its passage and it is so enacted.

Approved March 28, 1917.

Became a law March 28, 1917.

PURCHASE AND PATENT.

LAWS 1893, P. 100.

MAY 2, 1893.

CHAPTER 77.

AN ACT to amend section 10, Chapter 100, of an act entitled "An act to promote the development of the mining resources of Texas," approved March 29, 1889.

Sec. 1. Be it enacted, etc.:

That section 10, of chapter 100, of an act entitled "An act to promote the development of the mining resources of Texas," approved March 29, 1889, be so amended as to hereafter read as follows:

Sec. 10. That any person shall have the right to purchase and obtain patent, by compliance with this act, on any public school, university, asylum, and public lands, containing valuable deposits of kaolin, baryta, salt, marble, fire-clay, iron ore, coal, oil, natural gas, gypsum, nitrates, mineral paints, asbestos, marls, natural cement, clay, onyx, mica, precious stones, and stone valuable for ornamental purposes, or other valuable building material, in legal subdivisions in quantity not exceeding one section: Provided, that where any such parties shall have heretofore expended, or shall hereafter expend, five thousand dollars in developing the aforesaid mineral resources of any of said lands, such parties shall have the right to buy one additional section and no more, and to include in the purchase any section, or part thereof, on which the work may have been done. The lands so purchased may be in different sections, and all embraced in one or more obligations, not to exceed the quantity stated. The purchaser shall pay not less than fifteen dollars per acre where the lands shall be situated ten miles or less of any railroad in operation, and not less than ten dollars per acre where the land is over ten miles from such railroad; one-tenth of the purchase money to be paid in cash to the State Treasurer, and the purchaser shall file the Treasurer's receipt with the Commissioner of the General Land Office, together with an obligation to pay the State of Texas the remainder in nine equal annual installments, with interest at six per cent per annum from date, subject to forfeiture as in other cases. And all said lands are reserved from sale or other disposition than under this act; and where application is made to buy any of the lands herein named, except under this act, the purchaser shall swear that there are none of the minerals named in this act on said lands, so far as he knows or has reason to believe, or does believe: Provided, further, that any party hereinbefore named who shall, prior to the passage of this act, have been the first to work on said lands for the development of said mineral resources, and who has not abandoned said work, and is qualified at passage of this act to buy, shall have a prior preference right of doing so for thirty days after this act goes into effect: Provided, further, this act shall not authorize the sale of lands containing valuable deposits of gold, silver, lead, cinnabar, copper, or other valuable metal.

Sec. 2. The fact that there is no adequate law for utilizing the lands named in this act, and the development thereof retarded, creates an emergency, and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect from date of passage, and it is so enacted.

Approved May 2, A. D. 1893.

OIL AND GAS WELLS.

DRILLING REGULATIONS—PREVENTING ESCAPE.

PLUGGING WELLS—DUTY AND PENALTY.

DRILLING REGULATIONS—PREVENTING ESCAPE.

LAWS 1899, P. 68.

MARCH 29, 1899.

CHAPTER XLIX.

AN ACT to regulate drilling, operation and abandonment of petroleum oil, natural gas and mineral water wells, and to prevent certain abuses connected therewith.

Sec. 1. Be it enacted, etc.:

That the owner or operator of any well being constructed for the production of petroleum oil, natural gas, or mineral water, shall, before drilling into the oil or gas bearing rock, incase such well with good and sufficient wrought

iron or steel casing, in such manner as shall exclude all surface or fresh water from the lower part of such well from penetrating the oil or gas bearing rock.

Should any well be drilled through the first into a lower oil or gas bearing rock, the same shall be cased in such manner as will exclude all fresh water above the last oil or gas bearing rock penetrated.

Sec. 2. That the owner or operator of any well constructed for either or any of the purposes named in the first section of this act, when about to abandon or cease operating the same, and before drawing the casing therefrom, shall securely fill such well with rock, sediment or with mortar, composed of two (2) parts sand and one (1) part cement or other suitable material to the depth of two hundred feet above the top of the first oil or gas bearing rock, and also in such manner as shall prevent the gas and oil from escaping therefrom.

If the owner or operator of any such well shall fail to or shall inefficiently comply with the provisions of this section then the owner of the land upon which the well is situated shall forthwith comply therewith.

If all the persons hereinbefore named shall fail to or inefficiently fill such well in the manner hereinbefore described, then it shall be lawful for any person, after written demand therefor to any of said persons, to enter the premises where such well is situated, take possession thereof and fully comply with the provisions of this section.

The reasonable cost and expense thereof shall forthwith be paid by the owner or operator of the well, and on his default by the owner of the land.

The amount of such reasonable cost and expense shall forthwith be a lien upon the fixtures and machinery and leasehold interest of the owner and operator of said well, as upon the title and interest of the land owner in the land upon which said well is situated, and may be recovered and enforced against said owner or operator, in the order named, in any court of competent jurisdiction.

NOTE: Section 3 of the Act of March 29, 1899, was amended by the act of April 2, 1913, and the amended section reads as follows:

Sec. 1. That Article 7849, of the Title 134, Revised Civil Statutes of 1911 (Sec. 3, Act of March 29, 1899), be amended so as to read as follows:

Article 7849. (Sec. 3). Any person, co-partnership, or corporation in possession, either as owner, lessee, agent or manager, of any well producing natural gas, in order to prevent the said gas from wasting by escape, shall, within ten days after penetrating the gas bearing rock in any well hereafter drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for light or fuel or power; provided, that this shall not apply to any well that is operated for oil. Any person violating the provisions of this Article shall be liable to a penalty of not less than \$300.00 for each offense, to be recovered, with the costs of suit, in a civil action in the name of the State of Texas, in any court of competent jurisdiction in the county in which the act shall be committed or omitted, and each day such violation continues shall be considered a separate offense. Such suit may be brought at the instance of any resident of the State of Texas, without security or liability of cost. The amount of said penalty, when collected, shall be paid one-half into the school fund of the county in which said suit is brought, and one-half to said person at whose instance said suit shall be brought.

NOTE: Section 2 of the Act of April 2, 1913, amended Chapter I, Title 134, Revised Civil Statutes of 1911, by adding to the Act of March 29, 1899, Article 7854a. This Article is under the subtitle Plugging Wells—Duty and Penalty.

(Remaining sections of Act of March 29, 1899.)

Sec. 4. That it shall be unlawful for any person, co-partnership or corporation to use natural gas for illuminating purposes than in what are known as flambeau lights; but nothing herein shall prohibit the use of "Jumbo" burners, or any other burners consuming no more gas than such "Jumbo" burners, but the person, co-partnership or corporation consuming such gas and using such burners in the open air shall inclose the same in glass globes or lamps, and any one using such gas in the open air, or in or around derricks, shall turn off said gas not later than eight o'clock in the morning of each day such lights are burning or used, and shall not turn on or relight the same between the hours of eight o'clock a. m. and five o'clock p. m.

Sec. 5. That any person, co-partnership or corporation violating any of the provisions of this act, shall be liable to a penalty of one hundred dollars, to be recovered with the cost of suit in a civil action, in the name of the State of Texas, in any court of competent jurisdiction in the county in which the act shall be committed or omitted.

Such suit may be brought at the instance of any resident of the State of Texas, without security or liability of cost.

The amount of said penalty when collected shall be paid, one-half into the school fund of the county in which said suit is brought, and one-half to said person at whose instance said suit shall be brought.

Sec. 6. From the fact that the surface water in wells now abandoned is calculated to ruin the oil field in Navarro County, an emergency is created and an imperative public necessity requires the suspension of the constitutional rule requiring bills to be read on three several days, and it is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

NOTE: Four sections were added to the Act of March 29, 1899, by the Act of May 5, 1905, and shown by the following Act:

PLUGGING WELLS—DUTY AND PENALTY.

LAWS 1905, P. 228.

MAY 9, 1905.

CHAPTER 119.

AN ACT to amend An Act entitled "An Act to regulate drilling, operation and abandonment of petroleum oil, natural gas and mineral water wells, and to prevent certain abuses connected therewith," approved March 29, 1899, by adding thereto Sections 7, 8, 9, and 10; and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That An Act of the Legislature of Texas, approved March 29, 1899, entitled "An Act to regulate drilling, operation and abandonment of petroleum oil, natural gas, and mineral water wells, and to prevent certain abuses connected therewith," be amended by adding thereto Sections 7, 8, 9 and 10 to read as follows:

Sec. 7. If any person or persons in this State in boring any well or wells for oil, gas or mineral waters shall pierce any cap-rock or other geological formation in such manner as to cause a flow of salt water or fresh water injurious to any oil well or wells already bored, or to any oil, or gas deposits, and which shall or may probably result in the injury of such oil or gas field or to such gas or oil wells already bored, such persons or person shall, if the flow of water can not be cased off, immediately abandon all work upon such well and plug and fill up the same in such manner and with such materials as will stop the flow of said water; and it shall be unlawful for any well owner, or person boring any such well to remove the casing from the well drilled until the flow of

water shall be stopped either by casing off or plugging such well. **Provided,** however, that the provisions of this Section shall only apply where such cap-rock or other formation is pierced at a depth below the horizon at which oil or gas has already been discovered. **Provided further,** that if any well shall be abandoned from any cause, the same shall be securely plugged and sealed.

Sec. 8. The district courts of each county in this State, and the judges thereof, in vacation, shall have jurisdiction to enforce the provisions of this Act, and they are hereby authorized and empowered, either in term time or in vacation, upon the application of any person or persons, interested either as land owners, lessees of land or as well owners, in any oil or gas field in this State, in its discretion to appoint some suitable person or persons as superintendent of such oil or gas field and to require of such person a bond, the amount thereof to be fixed by the court, conditioned that such superintendent shall obey and carry out the rules, regulations, orders and decrees which may be from time to time prescribed and entered by said court for the protection of such oil or gas field and the persons employed therein, from fire or other causes likely to be injurious to the properties and operations in such field, and with power and authority to enforce under the orders of said court, a strict compliance by all persons with all the requirements of the laws of this State governing the boring and operation of oil or gas wells in oil or gas fields, and said courts are authorized and empowered to make from time to time such rules and regulations for the government of such oil and gas fields and the operations carried on therein, and the handling of the oil or gas products as may, in the discretion of the court, be necessary or requisite for the protection of the several interests in said oil and gas field from fire or other probable injurious cause. **Provided,** however, that the court may require of the persons who apply for the appointment of a superintendent of any oil or gas field or other protective order proper security for the payment of any and all costs of court, including the salaries of any superintendents, or necessary employes under him, as well as for such other costs and expense as may be necessary to be expended in the protection of such oil or gas field and the enforcement of the orders of said courts.

Sec. 9. That any person or persons, co-partnership, corporation or association of persons, violating any of the provisions of this Act, or who shall fail or refuse to obey any order or decree, rule or regulation, made or promulgated by said district courts requiring any Act to be done or omitted shall be liable to penalty of not less than five hundred dollars nor more than five thousands dollars, to be ascertained by the verdict of the jury of the court trying the cause, said sum to be recovered with the costs of suit in a civil action brought for that purpose in the name of the State of Texas, in any court of competent jurisdiction, in the county in which the Act complained of shall have been committed or omitted, and such suit may be brought at the instance of any resident of the State of Texas, without security or liability for costs, and the amount of said penalty when collected shall be paid into the school fund of the county in which said suit is brought. **Provided,** however, that such suit may be brought at the instance of either the district attorney or the county attorney of the county in which the act was committed or omitted.

Sec. 10. Whereas, the rich oil and gas fields in the State of Texas, if properly treated and operated, are capable of supplying to the people of Texas for many years a long felt want for cheap fuel; and

Whereas, said oil and gas fields are now being operated in such a wasteful and reckless manner as is dangerous to human life and property, and in such manner as will in a short space of time necessarily exhaust the natural supply of oil and gas which such fields are capable of supplying and will shorten the

natural life of such fields for furnishing a supply of cheap fuel, to the great injury of the people of this State; and

Whereas, some regulation of said fields has become a public necessity, therefore an emergency exists and an imperative public necessity requires the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage and it is so enacted.

Became a law May 9, 1905.

NOTE: Two sections were added to the Act of May 9, 1905, by the Act of April 2, 1913, and shown as follows:

LAWS 1913, P. 212.

APRIL 2, 1913.

CHAPTER 111.

AN ACT to amend Chapter 1, Title 134, of the Revised Civil Statutes of 1911, * * * by adding to the said Chapter, Article 7854a and Article 7854b, relating to the prevention of waste of natural gas, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. That Article 7849, of Title 134, Revised Civil Statutes of 1911 be amended so as to read as follows:

NOTE: This section is inserted as amended section 3 of the Act of March 29, 1899.

* * * * *

Sec. 2. That Chapter 1, Title 134, of the Revised Civil Statutes of 1911 be amended by adding thereto Article 7854a, to read as follows:

Article 7854a. If the owner of any such well shall neglect or refuse to cause said well to be plugged or shut in, as herein provided, for a period of twenty days after a written notice to do so, (which notice may be served personally upon such owner, or may be posted in a conspicuous place at or near the well), it shall be lawful for the owner or operator of any adjacent or neighboring lands to enter upon the premises where said well is situate and to cause the same to be plugged if it be an abandoned well, or shut in if not abandoned, pursuant to the provisions hereof; and the reasonable cost and expense incurred in so doing shall be paid by the owner of said well and may be recovered as debts of like amount are by law recoverable.

Sec. 3. That Chapter 1, Title 134, of the Revised Civil Statutes of 1911 be further amended by adding thereto Article 7854b, to read as follows:

Article 7854b. Aside from and in addition to the penalties provided in this Chapter, it shall be the duty of any district judge, whether in term time or vacation, to hear and determine any petition which may be filed to restrain the waste of natural gas in violation of this Act and to issue such mandatory or restraining orders as may in his judgment, be necessary. Such petition may be filed by any citizen of the State of Texas and the same need allege no further financial interest than the petitioner possesses in common with all citizens of the State in the natural resources thereof.

Sec. 4. The fact that the natural gas resources of the State are being wasted, together with the crowded condition of the calendar and the near approach of the end of the session, create an emergency and an urgent public necessity that the constitutional rule requiring that bills be read on three several days be suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

Approved April 2, 1913.

Became a law April 2, 1913.

OIL LEASEHOLDS AND OIL PROPERTIES—LIENS ON.

LAWS 1917, P. 28.

FEBRUARY 13, 1917.

CHAPTER 17.

AN ACT creating and providing for the enforcement of liens for material, machinery or supplies furnished to, or for labor performed for, owners of land, mines or quarries, or owners of leaseholds for oil, gas, or water wells, for oil or gas pipe lines and rights of way, or for mining or quarrying purposes, and for materials, machinery, supplies or labor for the construction, maintenance, operation or repair of oil, gas or water wells, or for oil or gas pipe lines, mines or quarries, and prohibiting the sale or removal of property subject to such liens without the consent of the lien holders and providing a penalty therefor, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. Any person, corporation, firm, association, partnership, materialman, artisan, laborer or mechanic, who shall, under contract, express or implied, with the owner of any land, mine or quarry, or the owner of any gas, oil or mineral leasehold interest in land, or the owner of any gas pipe line or oil pipe line, or owner of any oil or gas pipe line right of way, or with the trustee, agent or receiver of any such owner, perform labor or furnish material, machinery or supplies, used in the digging, drilling, torpedoing, operating, completing, maintaining or repairing any such oil or gas well, water well, mine or quarry, or oil or gas pipe line, shall have a lien on the whole of such land or leasehold interest therein, or oil pipe line or gas pipe line, including the right of way for same, or lease for oil and gas purposes, the buildings and appurtenances, and upon the materials and supplies so furnished, and upon said oil well, gas well, water well, oil or gas pipe line, mine or quarry for which same are furnished, and upon all of the other oil wells, gas wells, buildings and appurtenances, including pipe line, leasehold interest and land used in operating for oil, gas and other minerals, upon such leasehold or land or pipe line and the right of way therefor, for which said material and supplies were furnished or labor performed. Provided, that if labor supplies, machinery, or material is furnished to a leaseholder the lien hereby created shall not attach to the underlying fee title to the land.

Sec. 2. Any person, corporation, firm, association, partnership or materialman, who shall furnish such machinery, material or supplies to a contractor or sub-contractor, or any person who shall perform such labor under a sub-contract with a contractor, or who as an artisan or day laborer in the employ of such contractor or sub-contractor, shall perform any such labor, shall have a lien upon the said land or leasehold interest therein, or oil pipe line or gas pipe line, including the right of way therefor, or lease for oil and gas purposes, the buildings and appurtenances, and upon the materials and supplies so furnished, and upon said oil well, gas well, water well, oil or gas pipe line and the right of way therefor, mine or quarry, for which same are furnished, and upon all of the other oil wells, buildings and appurtenances, leasehold interest, oil or gas pipe line including right of way, or land used in the operating for oil, gas or other minerals upon said leasehold or land for which said material and supplies were furnished and labor performed, in the same manner and to the same extent as the original contractor, for the amount due him for material furnished or labor performed.

Sec. 3. The lien herein provided for shall attach to the machinery, material, supplies and the specific improvements, made in preference to any prior lien or encumbrance or mortgage upon the land or leasehold interest upon which the said machinery, material, supplies or specific improvements are placed or

located; provided, however, that any lien, encumbrance, or mortgage upon the land or leasehold interest at the time of the inception of the lien herein provided, for, shall not be affected thereby; and the Holders of such liens upon such land or leasehold interest shall not be necessary parties in suits to foreclose the liens hereby created.

Sec. 4. The liens herein created shall be fixed and secured and notice thereof shall be given and such liens shall attach and be enforced in the same manner, and materialman's statement, or the lien of any laborer herein mentioned shall be filed and recorded within the same time, and in the same manner as provided for in Chapter 2, Title 86, entitled "Liens," of the Revised Statutes of 1911 of the State of Texas, relating to liens for mechanics, contractors, builders and materialmen as the same now exists or may hereafter be amended. Whenever any person shall remove any such property to a county other than the one in which the lien has been filed, the lien holder may within 90 days thereafter file an itemized inventory of the property so removed, showing how much there is due and unpaid thereon, with the clerk of the county to which it has been removed, which shall be recorded in the materialman's lien records of such county, and such filing shall operate as notice of the existence of the lien and the lien shall attach and extend to the land or leasehold and other premises, properties and appurtenances to which said properties so removed shall attach, of the kind and character enumerated in Sections one and two hereof.

Sec. 5. When the lien herein provided for shall have attached to the property covered thereby, neither the owner of the land nor the owner of said oil, gas or mineral leasehold interest therein, nor the owner of any gas pipe line or oil pipe line nor the contractor, nor the sub-contractor, nor the purchaser, nor the trustee, receiver or agent, of any such owner, lessor, lessee, contractor, sub-contractor or purchaser, shall either sell or remove the property subject to said lien or cause same to be removed from the land or premises upon which they were to be used, or otherwise sell or dispose of the same, without the written consent of the holder of the lien hereby created; and in case of any violation of the provision of this article, the said lien holder shall be entitled to the possession of the property upon which said lien exists wherever found, and to have the same then sold for the payment of his debt, whether said debt has become due or not.

Sec. 6. If any person shall remove any property or any part thereof covered by the lien hereby created from the place where it was located when the lien herein provided for shall have been filed of record, without the written consent of the owner and holder of said lien, with intent to defraud the person having such lien, either originally or by transfer, he shall be deemed guilty of a misdemeanor, upon conviction thereof, shall be punished by a fine of not less than five nor more than five hundred dollars.

Sec. 7. The provisions of this Act shall not be construed to deprive or abridge materialmen, artisans, laborers, or mechanics of any rights and remedies, now given them by law, and the provisions of this Act shall be cumulative of the present lien laws.

Sec. 8. Nothing in this Act shall be construed to fix a greater liability against the owner of the land or leasehold interest therein than the price or sum stipulated to be paid in the contract under which such material is furnished, or labor performed.

Sec. 9. It is hereby provided that if any of the provisions of this act, shall, for any reason, be held to be invalid or unenforceable, the remainder of this Act shall, nevertheless, not be affected hereby, but shall remain in full force and effect.

Sec. 10. There being no law protecting laborers and materialmen for labor performed for owners of lands, mines or quarries or owners of leaseholds for oil, gas, pipe lines or rights of way for mining or quarrying purposes, creates an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

Approved February 13, 1917.

Takes effect 90 days after adjournment.

PIPE LINES.

COMMON CARRIERS—RIGHTS OF WAY—REGULATIONS.

LAWS 1917, P. 48.

FEBRUARY 20, 1917.

CHAPTER 30.

AN ACT defining common carrier pipe lines engaged, or to engage in the transportation of petroleum oil; declaring all corporations, persons, partnerships, or associations of persons now engaged, or to hereafter engage in transporting petroleum oil from place to place in this State to be common carriers, declaring such common carriers to be public utilities and making them subject to the provisions of this Act; giving the Railroad Commission of Texas the power to regulate the rate of such transportation by such common carriers; granting them the right to establish, maintain, and operate telegraph and telephone lines upon their rights of way in connection with their business, and to build and maintain their lines under and across or along streams, highways and streets as other common carriers within this State; and providing against discrimination in favor of or against individuals, associations, of persons or corporations in the conduct of their business, requiring them to exchange tonnage with other common carriers, and to receive and transport petroleum oil tendered to them for transportation; empowering said commission to make rules and regulations for their conduct, and to require the construction and maintenance by them of loading tracks and transfer and delivery stations, and the transfer and delivery of petroleum from such common carrier to another, and to fix the charges therefor, and to define merchantable oil, and to fix the amount of deduction to be made therefrom on account of water and other foreign substances, and on account of evaporation and leakage and giving said commission plenary power to make rules and regulations for the control of such carrier, and power to enforce their rules and regulations and the provisions of this Act; fixing penalties for violation of this Act, and the rules and orders of said commission; making certain violations a criminal offense and fixing the penalty therefor, and providing means for the recovery of such penalties as are not made criminal, either by the State of Texas or the party aggrieved by such violation, naming the tribunal in which such recovery may be had; providing for the employment of an expert to assist the commission, fixing his salary and making an appropriation therefor; levying a tax to pay such salary and other expenses; making this Act cumulative, providing that the invalidity of any part of this Act shall not invalidate the remaining parts hereof, and declaring an emergency.

Be it enacted, etc.:

Sec. 1. Every person, firm, corporation, limited partnership, joint stock association or association of any kind whatever;

(a) Owning, operating or managing any pipe line or any part of any pipe line within the State of Texas for the transportation of crude petroleum to or for the public for hire, or engaged in the business of transporting crude petroleum by pipe line; or

(b) Owning, operating or managing any pipe line or any part of any pipe line for the transportation of crude petroleum, to or for the public for hire, and which said pipe line is constructed or maintained upon, along, over or

under any public road or highway, or in favor of whom the right of eminent domain exists; or

(c) Owning, operating or managing any pipe line or any part of any pipe line or pipe lines for transportation to or for the public, for hire, of crude petroleum, and which said pipe line or pipe lines is or may be constructed, operated or maintained across, upon, along, over or under the right of way of any railroad, corporation or other common carrier required by law to transport crude petroleum as a common carrier; or

(d) Owning, operating or managing or participating in ownership, operation or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipe line or pipe lines, or part of any pipe line, for the transportation from any oil field or place of production within the State of Texas to any distributing, refining or marketing center or reshipping point thereof, within this State, of crude petroleum bought of others:

Is hereby declared to be a common carrier and subject to the provisions hereof. But the provisions of this act shall not apply to those pipe lines which are limited in their use to the wells, stations, plants, and refineries of the owner and which are not a part of the pipe line transportation system of any common carrier as above defined; nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipe line transportation system.

Sec. 2. It is declared that the operation of those pipe lines, to which this Act applies, for the transportation of crude petroleum, in connection with the purchase or purchase and sale of such crude petroleum, is a business in the mode of the conduct of which the public is interested, and as such is subject to regulation by law; and accordingly it is provided that from and after the expiration of thirty (30) days from the time this law takes effect the business of purchasing, or of purchasing and selling crude petroleum, using in connection with such business a pipe line of the class subject to this Act to transport the crude petroleum so bought or sold, shall not be conducted, unless such pipe line so used in connection with such business be a common carrier within the purview of this law and subject to the jurisdiction herein conferred upon the Railroad Commission of Texas. It shall be the duty of the Attorney General to enforce this provision by injunction or other adequate remedy.

Sec. 3. The right to lay, maintain and operate pipe lines, together with telegraph and telephone lines incidental to and designed for use only in connection with the operation of such pipe lines along, across or under any public stream or highway in this State, is hereby conferred upon all persons, firms, limited partnerships, joint stock associations, or corporations coming within any of the definitions of common carrier pipe lines as hereinbefore made. Any person, firm, limited partnership, joint stock association, or corporation may acquire the right to construct pipe lines and such incidental telephone and telegraph lines along, across or over any public road or highway in this State, by filing with the Railroad Commission an acceptance of the provisions of this law, expressly agreeing in writing that in consideration of the rights so acquired it shall be and become a common carrier pipe line, subject to the duties and obligations conferred or imposed in this Act. This right to run along, across or over any public road or highway, as before provided for, can only be exercised upon condition that the traffic thereon be not interfered with, and that such road or highway be promptly restored to its former condition of usefulness, and the restoration thereof to be subject also to the supervision of the county commissioners' court or other proper local authority. And provided, that in the exercise of the privileges herein conferred, such pipe lines shall com-

pensate the county or road district, respectively, for any damage done to such public road, in the laying of pipe lines, telegraph or telephone lines, along or across the same; and nothing herein shall be construed to grant any pipe line company the right to use any public street or alley of any incorporated city or town, except by express permission from the city or governing authority thereof; and nothing herein shall be construed to permit any company to use any street or alley of any unincorporated town, except by express permission of the commissioners' court of the county in which such town is situated.

Sec. 4. The Railroad Commission shall have the power to establish and enforce rates of charges and regulations for gathering, transporting, loading and delivering crude petroleum by such common carriers in this State, and for the use of storage facilities necessarily incident to such transportation, and to prescribe and enforce rules and regulations for the government and control of such common carriers in respect to their pipe lines and receiving, transferring and loading facilities, and it shall be its duty to exercise such power upon petition by any person showing a substantial interest in the subject. No order establishing or prescribing rates, rules and regulations shall be made except after hearing and at least ten days and not more than thirty days' notice to the person, firm, corporation, partnership, joint stock association, or association owning or controlling and operating the pipe line or pipe lines affected. In the event any rate shall be filed by any pipe line and complaint against same or petition to reduce same shall be filed by any shipper, and such complaint be sustained, in whole or in part, all shippers who shall have paid the rates so filed by the pipe line shall have the right to reparation or reimbursement of all excess in transportation charges so paid over and above the proper rate as finally determined on all shipments made after the date of the filing of such complaint.

Sec. 5. Every common carrier as above defined shall exchange crude petroleum tonnage with each like common carrier and the commission shall have the power to require such connections and facilities for the interchange of such tonnage to be made at every locality reached by both pipe lines whenever a necessity therefor exists and subject to such rates and regulations as may be made by the commission; and any such common carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum of patrons at all points on such pipe line. No carrier shall be required to receive or transport any crude petroleum except such as may be marketable under rules and regulations to be prescribed by the commission, which they are hereby empowered and required to prescribe. The commission is also empowered and required to make rules for the ascertainment of the amount of water and other foreign matter in oil tendered for transportation, and for deduction therefor and for the amount of deduction to be made for temperature, leakage and evaporation. It is provided, however, that the recital herein of particular powers on the part of said commission shall not be construed to limit the general powers conferred by this Act. Until set aside or vacated by some decree or order of a court of competent jurisdiction, all orders of the commission as to any matter within its jurisdiction shall be accepted as *prima facie* evidence of their validity.

Sec. 6. Such common carriers of crude petroleum shall make and publish their tariffs under such rules and regulations as may be prescribed by said commission, and the commission shall require them to make reports and may investigate their books and records kept in connection with such business. The commission shall require of such common carrier pipe lines monthly reports, duly verified under oath, of the total quantities of crude petroleum owned by such pipe lines and of that held by them in storage for others, as also of their

unfilled storage capacity, provided no publicity shall be given by the commission to the reports as to stock of crude petroleum on hand of any particular pipe line; but the commission in its discretion may make public the aggregate amounts held by all the pipe lines making such reports, and of their aggregate storage capacity. The commission shall have the power and authority to hear and determine complaints, to require attendance of witnesses, pay their expenses out of the fund herein created, and to institute suits and sue out such writs and process as may be necessary for the enforcement of its orders.

Sec. 7. No such common carrier in its operations as such shall discriminate between or against shippers in regard to facilities furnished or service rendered or rates charged under same or similar circumstances in the transportation of crude petroleum; nor shall there be any discrimination in the transportation of crude petroleum produced or purchased by itself directly or indirectly. In this connection the pipe line shall be considered as a shipper of the crude petroleum produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operations shall directly or indirectly charge, demand, collect or receive from any one a greater or less compensation for any service rendered than from another for a like and contemporaneous service; provided this shall not limit the right of the commission to prescribe rates and regulations different from or to some places from other rates or regulations for transportations from or to other places, as it may determine; nor shall any carrier be guilty of discrimination when obeying any order of the commission. When there shall be offered for transportation more crude petroleum than can be immediately transported, the same shall be equitably apportioned. The commission may make and enforce general or specific regulations in this regard. No such common carrier shall at any time be required to receive for shipments from any person, firm, corporation or association of persons, exceeding three thousand barrels of petroleum in any one day.

Sec. 8. The commission, when necessary, shall make and enforce rules and regulations either general in their nature or applicable to particular oil fields for the prevention of actual waste of oil or operations in the field dangerous to life or property.

Sec. 9. Any common carrier as herein defined who shall violate any provision of this Act or who shall fail to perform any duty herein imposed or any valid order of the commission when not stayed or suspended by order of court, shall be subject to a penalty of not less than one hundred dollars nor more than one thousand dollars for each offense, such penalty to be recoverable at suit of the Attorney General of the State of Texas in the name of the State and for its use. Such penalty may also be recorded by and for the use of any person, corporation or association of persons against whom there shall have been an unlawful discrimination as herein defined; such suit to be brought in the name of and for the use of party aggrieved and may be maintained in any court of proper jurisdiction, having due regard to the ordinary statutes of venue. For the wilful violations of the provisions herein forbidding discrimination on the part of common carriers, it is hereby provided that the owners, officers, agents or employees of such carriers who may be guilty thereof shall be deemed guilty of a misdemeanor, each violation of such provisions shall be deemed a separate offense and upon conviction thereof the party violating same shall be fined in a sum of not less than fifty dollars nor more than one thousand dollars, and may be further punished by confinement in the county jail for not less than ten days nor more than six months.

Sec. 10. Subject to the provisions of this Act and the rules of (or) regulations which may be prescribed by the commission, every such common carrier

shall receive and transport crude petroleum delivered to it for transportation and shall so receive and transport same and perform its other duties with respect thereto without discrimination.

Sec. 11. It shall be the duty of the commission to employ an expert who shall gather information and assist the commission in the performance of its duties under this act. The salary of this expert shall be at the rate of thirty-six hundred dollars per annum, payable to equal monthly installments. And the commission shall employ such other assistants as may be necessary. These salaries and expenses and the expenses of the hearings and investigations conducted by said commission shall be paid out of a fund to be derived from a tax of one-twentieth of one per cent of the market value of crude petroleum produced within this State, which tax is hereby levied, and which tax shall be in addition to and collected in the same manner as the present gross receipts production tax on crude petroleum. Producers of crude petroleum are hereby required to make reports of production in the same manner and under the same penalties as for the gross production tax. The tax thus collected shall be paid into the State treasury as other revenue, and shall be paid out in warrants as other State funds. Any yearly excess of the tax over and above the requirements of the commission shall become a part of the general revenue of the State and any deficit shall be made up out of the general revenue of the State.

Sec. 12. The sum of five thousand dollars is hereby appropriated out of the general revenue of the State not otherwise appropriated for the purpose of paying the salary of the expert for the commission, and other expenses incurred by the commission hereunder until the petroleum tax becomes available.

Sec. 13. The salary of the expert for the commission shall be paid by monthly warrants drawn by the State Comptroller on the State Treasurer. Other expenses of the commission, such as traveling expenses, expenses of witness, stenographers and stationery, shall be paid by like warrants issued upon duly verified statements of the persons entitled, with the approval of the chairman of the commission endorsed thereon.

Sec. 14. This Act shall be cumulative of all the laws of this State, which are not in direct conflict herewith, regulating the control of pipe line companies or similar corporations, in this State.

Sec. 15. If any provision of this Act shall be held unconstitutional or for any other reason shall be held to be void, or if more than one provision of this Act shall be held to be void, such holding shall not have the effect to nullify the remaining parts of this Act, but the parts not so held to be void shall nevertheless remain in full force and effect.

Sec. 16. Whereas, there is no law in this State regulating corporations, persons or associations of persons engaged in the business of transporting crude petroleum by pipe line for hire, and no law bringing persons and associations of persons so engaged in the transportation of crude petroleum by pipe lines within the definition of common carriers and public utilities, and no tribunal having jurisdiction thereof, now therefore it is hereby declared that an emergency exists creating an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days and the same is hereby suspended, and this law shall take effect and be in force from and after its passage, and it is so enacted.

Approved February 20, 1917.

Takes effect 90 days after adjournment.

NOTE: The sections of this act from 1 to 11, inclusive, are the same as Articles 732½ to 732½j, Vernon's Texas Civil & Criminal Statutes, 1918 Supplement. Sections 13 to 15, inclusive, are Articles 732½k to 732½m, inclusive, of the same work.

UTAH.

CONTENTS.

	Page.
Eminent domain -----	325
Pipe lines, tanks and reservoirs—Rights of way-----	325
Oil and gas-----	325
Wells—Plugging -----	325
State lands -----	327
Natural gas lands—Sale or lease -----	327

EMINENT DOMAIN.

PIPE LINES, TANKS AND RESERVOIRS—RIGHTS OF WAY.

COMPILED LAWS 1917, P. 848. •

TITLE 71.

4024. Right of way for pipe lines.

Any person, corporation, or association desirous of obtaining the right of way for a pipe line or lines, or for the location of any gas tank or reservoir, shall be entitled to exercise the right of eminent domain.

COMPILED LAWS 1917, P. 1451.

CHAPTER 65.

EMINENT DOMAIN.

7330. Exercised in behalf of what uses.

Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses :

* * * * *
6. * * * Natural gas or oil pipe lines, tanks, or reservoirs. * * *
(Laws 1909, p. 50.)

OIL AND GAS.

WELLS—PLUGGING.

COMPILED LAWS 1917, P. 848.

TITLE 71.

NATURAL GAS AND OIL.

4020. Confining gas in unused well.

Any person or corporation in possession as owner, lessee, agent, or manager of any well in which natural gas has been found, shall, unless said gas is being utilized, within three months from the completion of said well, or at any time

upon ceasing to use such well, confine the gas in said well until such time as it shall be utilized; provided, that this section shall not apply to any well operated as an oil well.

4021. Plugging abandoned well.

Upon abandoning or ceasing to operate any well sunk in exploring for gas, the person or corporation that sunk the same shall fill up the well with sand or rock sediment to a depth of at least twenty feet above the gas-bearing rock, and drive a round, seasoned wooden plug, at least three feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing; and immediately after drawing the casing, shall drive a round, seasoned wooden plug to a point just below where the lower end of the casing rested, which plug shall be at least three feet in length, tapering in form, and of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the hole below the point at which it is to be driven. After the plug has been properly driven there shall be filled on the top of the same, sand or rock sediment to a depth of at least five feet; provided, that in case such geological formation shall be encountered in the bore as to make some other method more effective for preventing flooding by water from superposed strata, the State mine inspector may direct what other plan shall be pursued without unreasonable cost to the owner or lessee of the well.

4022. Penalties for neglect.

Any person or corporation who shall violate any of the provisions of Sections 4020, 4021, shall be liable to a penalty of \$200 for each and every violation thereof and to the further penalty of \$200 for each thirty days during which such violation shall continue; and all such penalties shall be recovered, with costs of suit, in a civil action or actions, in the name of the state for the use of the county in which the well shall have been opened.

4023. Rights of adjacent owner.

Whenever any person or corporation shall abandon any gas well, and shall fail to comply with section 4021, any person or corporation lawfully in possession of lands adjacent to or in the neighborhood of said well may enter upon the land upon which said well is situated and take possession of said well, and plug the same in the manner provided by Section 4021, and may maintain a civil action in any court of the state, against all or any of the owners or persons abandoning said well, to recover the costs thereof. This shall be in addition to the penalties provided by Section 4022.

* * * * *

NOTE: Section 4024 is given under the title, Eminent domain.

4025. Duties of owner when drilling well.

When any well shall be drilled in this state on lands producing or containing petroleum or natural gas, it shall be the duty of the owner or operator thereof, before drilling said well into the oil or gas bearing sand or strata, to incase such well in such manner as to effectually exclude and prevent all water from reaching said oil or gas-bearing sand or strata. (Laws 1909, p. 268.)

4026. Duties of owner upon abandonment of well.

And it shall be the duty of said owner or operator, before abandoning or ceasing to operate any such well, to securely and effectually plug said well and to fill it up with sand or rock sediment to a depth of at least fifty feet above the top of the oil or gas-bearing sand or strata in such manner as to exclude all water from reaching said oil or gas-bearing sand or strata and also as to prevent any oil or gas escaping therefrom. (Laws 1909, p. 268.)

4027. Penalty.

Any person, firm, or corporation violating the provisions of sections 4025-4026 shall be deemed guilty of a misdemeanor, and shall be sentenced upon conviction thereof to the payment of a fine of not exceeding \$1,000. (Laws 1909, p. 268.)

STATE LANDS.

NATURAL GAS LANDS—SALE OR LEASE.

COMPILED LAWS 1917, P. 1095.

TITLE 101.

CHAPTER 1.

* * * * *

5575. Board to control state lands.

The board of land commissioners shall have the direction, management, and control of all lands heretofore, or which may hereafter be, granted to this state by the United States government, or otherwise, and to lands lying below the water's edge on any lake or stream to the bed of which the state is entitled, for any and all purposes whatsoever, except lands used or set apart for public purposes or occupied by public buildings, and shall have the power to sell or lease the same for the best interests of the state and in accordance with the provisions of this chapter and the constitution of the state. * * * (Laws 1917, p. 387.)

* * * * *

5582. Plats. Irrigable lands and water supply. Classification of lands.

The board shall provide, for field and office use, uncertified plats of the surveyed lands of the state; shall ascertain, as far as practicable, what of the unappropriated government lands in the state are capable of irrigation, and the sources and reliability of the supply of water for the same; and shall select such lands as may be suitable under the various grants made by the general government to the state, and shall classify said lands upon the office plats according to the following classification: * * * Natural gas producing * * * and show whether the same are improved or occupied. (Laws 1899, p. 87.)

WASHINGTON.

CONTENTS.

	Page.
Pipe lines -----	328
Injuring -----	328
Corporations operating—Common carriers—Regulations-----	328
State lands-----	329
Oil and gas—Lease—Sale-----	329

PIPE LINES.

INJURING.

CORPORATIONS OPERATING—COMMON CARRIERS—REGULATIONS.

INJURING.

CODES AND STATUTES OF WASHINGTON (REM. & BAL), 1910.

CRIMES AGAINST PROPERTY.

TITLE XIV, CHAPTER IX.

Sec. 2656. Injuring Public Utilities.

Every person who shall willfully or maliciously remove, damage or destroy:

* * * * *

(8) A pipe or main for conducting gas, * * * or oil, or any works erected for the purpose of supplying buildings therewith, or any appurtenance of appendage thereto. * * *

Shall be guilty of a misdemeanor. (Laws 1909, p. 1016, Sec. 404.)

CORPORATIONS OPERATING—COMMON CARRIERS—REGULATIONS.

LAWS 1915, P. 361.

MARCH 17, 1915.

CHAPTER 132.

CORPORATIONS OPERATING PIPE LINES FOR OILS AND NATURAL GASES.

AN ACT relating to the organization, management, control, and regulation of corporations for the purpose of constructing, maintaining and operating pipe lines and appurtenances for the conveyance and transportation of oils and natural gases and conferring the power of eminent domain.

Be it enacted, etc.:

Sec. 1. Two or more persons may organize a corporation having for its principal purpose the construction, maintenance and operation of pipe lines and appurtenances for the conveyance and transportation of oils and natural gases. Such corporation shall be organized in the manner provided by law for the organization of ordinary trade or business corporations and shall have power to acquire, hold, use and transfer all such real and personal property as may be

reasonably necessary for conducting its business, and to construct, maintain and operate pipe lines and appurtenances for the conveyance and transportation of oils and natural gases.

Sec. 2. Such corporations are hereby declared to be common carriers and subject to control and regulation by the public service commission of this state in the same manner and to the same extent as other public service corporations. The power of eminent domain is hereby conferred upon such corporations and they shall have the right to condemn and appropriate lands and property and interests therein for their use under the same procedure as is provided for the condemnation and appropriation of private property by railway companies but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation and appropriation by railway companies. Any property or interest therein acquired by any corporation under the provisions of this act by the exercise of the right of eminent domain shall be used exclusively for the purposes for which it was acquired.

STATE LANDS.

OIL AND GAS—LEASE—SALE.

CODES AND STATUTES OF WASHINGTON (REMINGTON & BALLINGER), 1910.

CHAPTER XV.

Sec. 6791. Commissioner Empowered to Lease.

The commissioner of public lands of the state of Washington is hereby authorized to execute leases and contracts for the mining and extraction of petroleum and natural gas from any land belonging to the state or from any lands in which the state may hereafter acquire title, subject to the conditions hereinafter provided. (Laws 1901, p. 218, Sec. 1.)

Sec. 6792. Who may Apply.

Any citizen of the United States finding petroleum or natural gas upon any lands belonging to the state of Washington may apply to the commissioner of public lands for a lease of any amount of such land not to exceed one section. (Laws 1901, p. 218, Sec. 2.)

Sec. 6793. Manner of Application.

Application shall be made in like manner as the application is made for the leasing of agricultural lands. (Laws 1901, p. 218, Sec. 3.)

NOTE: Section 6794 was amended by the Act of March 18, 1919, (Laws 1919, p. 434), and the amended section reads as follows:

Sec. 6794. Terms of Lease—Royalty—Limitation of Time.

No lease shall be made by the state for any sum less than twenty-five dollars (\$25.00) per quarter section of land for each year during the term of said lease, and in addition thereto the said lease shall provide that the state shall be entitled to receive a sum not less than ten per cent of the gross value of all petroleum and natural gas extracted therefrom during the term of the said lease, payable semi-annually during said term. The term "gross value" shall be interpreted to mean the value of the oil or gas at the well when produced, without deduction for expenses of production. The term of said lease to be any term not to exceed five years. (Laws 1915, p. 405, Sec. 9 as amended by Sec. 1, Laws 1919, p. 434.)

Sec. 6795. Reports and Accounting of Lessee.

Persons leasing lands under the provisions of this chapter shall mine, take out, keep, maintain, ship and sell all petroleum and natural gas mined upon or taken from the lands so leased, separate and distinct from all like products taken from other lands, and shall submit to the commissioner of public lands, at stated periods to be fixed by said commissioner, a statement showing the total product taken from said leased lands, the total shipments of such products, and an account showing the sales of all such products. The commissioner shall make all necessary rules and regulations necessary to carry out the provisions of this chapter, and to protect the interests of the state. The books and accounts of every person leasing lands under the provisions of this chapter shall be open to inspection by the state land commissioner, or such persons as he may designate at all times, and the property leased, together with all buildings, machinery, storage tanks and appliances of every kind and nature whatsoever, shall be subject to inspection and examination by the land commissioner. The reports required under this chapter shall be made under oath, upon forms prescribed by the commissioner. Failure on the part of any lessee hereunder to comply with the terms and conditions of this chapter, or of his lease, shall forthwith work a forfeiture of the lease. No such forfeiture may be waived. The commissioner of public lands shall incorporate in every such lease such other provisions and conditions not inconsistent with the provisions and conditions contained in this chapter as may in his judgment be advantageous to the state. (Laws 1901, p. 219, Sec. 5.)

Sec. 6796. Preference Right of Agricultural Lessee.

Any person now holding leases for agricultural purposes shall have a first right to lease the lands held by them as lessees of the state of Washington, and upon notice to them by the commissioner of public lands they shall within thirty days thereafter exercise their right to lease said lands under the provisions of this chapter, and upon their failure so to do their right to lease such land for mining for petroleum and natural gas shall be at an end, and the said land shall be deemed to be open and unoccupied public lands for the purpose of this chapter only, and the same shall be subject to lease for mining for petroleum and natural gas as if the same were fully owned and in the possession of the state. Any person so holding the lands of the state for agricultural purposes who shall within sixty days from the adoption of this chapter fail to apply to the state land commissioner for such lands shall forfeit all preference to them granted under the terms of this chapter. (Laws 1901, p. 219, Sec. 6.)

NOTE: Section 6797 was amended by the Act of March 18, 1919, (Laws 1919, p. 434), and the amended section reads as follows:

Sec. 6797. Work Under Lease Necessary to Validity.

All leases under the terms of this chapter shall be deemed to be void and of no effect unless the lessee or his assigns shall commence the work of drilling or boring for petroleum oil and gas within such period as may be designated by the commissioner of public lands, not exceeding two years from and after the date of the execution of such lease: Provided, That such work shall proceed continuously and at no time cease for a greater period than ninety (90) days: And provided further, That whenever oil and natural gas be discovered by such work in paying quantities then no further work need be done under the terms of such lease than to mine, secure and store the same, but failure to operate after discovery of oil or natural gas in paying quantities for any period of ninety consecutive days shall work a forfeiture of the lease. (Laws 1901, p. 220, Sec. 7, as amended by Laws 1919, p. 434, Sec. 2.)

Sec. 6798. Damages to Agricultural Lessee.

If land is leased by the state upon which an existing lease for agricultural purposes is held by some person other than the lessee under the terms of this chapter, that the lessee hereunder shall pay to such persons so holding said land under lease for agricultural purposes reasonable compensation for any and all damage sustained by him to growing crops or for the use of said premises during the development of the said petroleum and natural gas lands by mining and boring and holding possession thereof. (Laws 1901, p. 220, Sec. 8.)

NOTE: Section 6798a was added to the Code by the Act of March 18, 1919, and the new section reads as follows:

Sec. 6798a. If, at the expiration of any such lease for the mining and extraction of petroleum or natural gas, or any renewal thereof, the lessee desires to re-lease the lands covered thereby, he may make application to the commissioner of public lands for a re-lease. Such application shall be made within thirty days after the expiration of the lease, and shall be in writing and under oath, setting forth the character and value of all improvements existing on the land, the name and postoffice address of the owner thereof, the purpose for which he desires to re-lease the land, the amount considered by such lessee as the reasonable annual rental value thereof, and such other information as the commissioner of public lands may require, and shall be accompanied with a deposit of ten dollars (\$10.00), which deposit, if the land be not leased, through the failure or refusal of the applicant to accept a lease at the rate fixed by the commissioner of public lands, shall be forfeited to the state and by the commissioner paid to the state treasurer and credited to the general fund of the state. The commissioner of public lands may, upon the filing of such application, cause the lands to be inspected by a state land inspector; and if he deems it for the best interests of the state to re-lease said lands, he shall fix the rental value thereof and, upon receipt of the first year's rental, together with the fees required by law, the commissioner of public lands shall issue to the applicant a renewal lease for any period not exceeding five years. The commissioner of public lands shall notify the applicant by mail, of the rental value fixed, and if, within thirty days after the date of such notice, the applicant fails or refuses to pay to the commissioner of public lands the first year's rental, together with the statutory fee for issuing a lease, the application shall be rejected and the applicant thereunder permitted to remove such improvements from the land as may be removed without injury thereto, within ninety days from such rejection; the commissioner of public lands may cause the improvements existing upon the land to be appraised, in the same manner as in the case of the sale of land, offer the land for lease at public auction to the highest bidder, as provided for original leases, and if the successful bidder be not the owner of the improvements, he shall deposit with the officer making the sale the appraised value of the improvements. The amount so deposited as the appraised value of improvements, together with the first year's rental and the fees required by law, shall be transmitted to the commissioner of public lands, and upon confirmation of the lease by the commissioner of public lands, the amount so deposited in payment for the improvements shall be disposed of by the commissioner of public lands in the same manner as in the case of the sale of the land: Provided, That no bid shall be received for less than the minimum price fixed by the commissioner of public lands.

Sec. 4. The provisions of this act shall be and are hereby made applicable to all leases heretofore executed by the State of Washington and which are not in default. (This is the original unamended section 4 of the Act of 1901, p. 218.)

LAWS 1915, P. 405.

MARCH 18, 1915.

CHAPTER 147.

AN ACT relating to the selection, survey, management, sale, reclamation, lease and disposition of state, granted, school, tide, shore and other lands and harbor areas, and amending sections * * * 6675 * * * of Remington & Ballinger's Annotated Codes and Statutes of Washington.

Be it enacted, etc.:

* * * * *

Sec. 3. That section 6675 of Remington & Ballinger's Annotated Codes and Statutes of Washington be amended to read as follows:

Sec. 6675. All State lands shall be sold on the following terms: One-tenth to be paid on the date of sale and one-tenth to be paid one year from the date of issuance of the contract of sale and one-tenth annually thereafter until the full purchase price has been paid. * * * Provided, further, That each and every contract for the sale of any state lands, or deeds or patents to such state lands except deeds or patents issued pursuant to contracts heretofore made shall contain the following saving clause: "The party of the first part hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns forever, all oils, gases, coal, ores, minerals and fossils of every name, kind or description, and which may be in or upon said lands above described, or any party thereof, and the right to explore the same for such oil, gases, coal, ores, minerals, and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its successors and assigns forever, the right to enter by itself, its agents, attorneys and servants upon said lands or any part or parts thereof, at any and all times, for the purpose of opening, developing and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, sink such shafts, remove such soil, and to remain on said lands or any part thereof for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business hereby expressly reserving to itself, its successors and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

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WEST VIRGINIA.

CONTENTS.

	Page.
Eminent domain -----	333
Public uses—Private property-----	333
Rights of way—Proceedings to appropriate-----	334
Natural gas -----	335
Supply required—Regulations—Power of commission-----	335
Oil and gas wells -----	338
Drilling and plugging—Regulations -----	338
Pipe lines -----	340
Companies—Incorporation -----	340
Crossings and connections—Compensation-----	340
Obstruction of roads—Removal -----	341
Transportation and storage of oil—Regulations-----	342
Public service commission -----	348
Powers—Corporations—Pipe lines—Regulations -----	348
Taxation -----	354
Assessment of oil and gas lands—Returns-----	354

EMINENT DOMAIN.

PUBLIC USES—PRIVATE PROPERTY.

RIGHTS OF WAY—PROCEEDING TO APPROPRIATE.

PUBLIC USES—PRIVATE PROPERTY.

LAWS 1915, P. 214.

FEBRUARY 19, 1915.

CHAPTER 22.

AN ACT to amend and re-enact section two of chapter 13 of the acts of 1907, as amended and re-enacted by chapter 12 of the acts of 1913, relating to public uses for which private property and public highways may be taken or damaged.

Be it enacted, etc.:

NOTE: Sec. 2 of all prior and amendatory acts is the only section relating to the subject of oil, or gas, or pipe line companies, and the last amendment, of the Act of February 19, 1915, only is given under the section number of the Code Supplement of 1918, as follows:

CODE SUPPLEMENT, 1918, P. 291.

Sec. 1700. Public uses for which private property may be taken.

2. The public uses for which private property may be taken or damaged are as follows: * * *

Fifth. For companies organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, when for public use, but this act shall not be construed to interfere with the power of municipal corporations to enact and enforce such ordinances as may be necessary to protect the lives and property of citizens from the effects of explosions of carbon oil or natural gas. * * * (Acts 1915, Reg. Sess., Chap. 22.)

RIGHTS OF WAY—PROCEEDINGS TO APPROPRIATE

CODE 1913, P. 720 (VOL. 1).

CHAPTER 42.

* * * * *

Sec. 1719. * * * Proceedings by pipe line companies to condemn easement.

20. * * * Provided, however, that if the company desiring to condemn be a pipe line company organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise and seeking to condemn an easement, then in addition to the procedure in this chapter provided, such company, at its election, may proceed as follows: The company shall attempt to agree with the owner of the land as to the damage properly payable for such easement, if such owner can be found and is sui juris, and failing to agree, the applicant shall tender to the owner a bond with sufficient surety to secure him or her in the payment of damages, to which bond a plan shall be attached showing the route of the proposed pipe line over said land; upon acceptance of said bond the right of the applicant to enter upon the enjoyment of its easement shall be complete; if the owner refuse to accept said bond, or can not be found, or is not sui juris, said bond shall then be presented to the circuit court of the county in which the land is situated, or to a judge thereof in vacation, after five days' written notice shall have been given to the owner of said land, or to his guardian or committee if he be not sui juris, and if said owner can not be found, or his guardian or committee, being not sui juris, then after five days' written notice posted upon the said land; said notice shall state the time and place for the presentation of said bond, and shall state that unless exceptions to the form, amount or surety of said bond be filed within three days after presentation, said bond shall be approved by the court. Any trust company authorized to do business in the state of West Virginia shall be considered a good and sufficient surety on such bond.

If no exception to the said bond be filed within the said time, the said court shall approve the said bond and shall direct the said bond, with the plan thereto attached, be filed for the benefit of the owner of said land and of said applicant; if any exception to the said bond be filed within three days after the presentation thereof, the said court shall thereupon fix a day not more than five days thereafter for the hearing thereof, and may require evidence, either by testimony or otherwise, as to the sufficiency of the sureties or surety, and as to the sufficiency of the amount of the bond, and may in its discretion require new surety or may require bond for a larger amount or in more satisfactory form, and when the court shall approve said bond it shall be ordered to be filed as aforesaid; upon the approval of said bond and the filing thereof the right of the applicant to enter upon the enjoyment of its easement shall be complete.

Upon petition of either the property owner or the applicant, at any time after said bond shall have been presented and filed, five disinterested free holders shall be appointed as in this chapter provided, to serve as commissioners to ascertain what will be a just compensation to the person entitled thereto for the easement so appropriated, and thereafter the proceedings shall be in accordance with the provisions of this chapter. (Acts 1907, Reg. Sess. Chap. 74.)

* * * * *

CODE 1913, P. 1136 (VOL. 2).

CHAPTER 52.

* * * * *

Sec. 2833. Corporations for transportation of natural gas—Powers—Right of way—Appropriation.

24. That a company organized for the purpose of transporting natural gas, petroleum * * * necessary for use in carrying out the provisions of this act in piping and transporting natural gas and petroleum or for boring for the same, through tubing and pipes, may enter upon any land for the purpose of examining and surveying a line for its tubing and pipes, and may appropriate so much thereof as may be deemed necessary for the laying down of such tubing and piping, and for the erection of tanks and the location of stations along such line, and the erection of such buildings as may be necessary for the purpose aforesaid; such appropriations shall be made and conducted in accordance with the law providing for compensation to the owners of private property taken for public use; Provided, That no dwelling house, yard or garden, shall be taken for such purpose, nor shall any oil tank, gas or oil pipe line be erected or laid within one hundred feet of any occupied dwelling house without the consent of the owner thereof. And so far as the rights of the public therein are concerned, the county commissioners as to public roads, and the council of any municipal corporation, as to streets and alleys, in their respective jurisdiction, may, subject to such regulations and restrictions as they may prescribe, grant to such company the right to lay such tubing and piping therein; Provided, however, The right to appropriate for any of the purposes herein above specified shall not include or extend to the erection of any tank, station or building, or lands thereof, or to more than one continuous line of pipe or tubing, or land therefor, in or through a municipal corporation without the council first consents thereto; and all excavations shall be well filled by such company and so kept by it, in all cases. Such company shall, for the purpose of transporting natural gas, oils * * * be considered and held to be a common carrier, and subject to all the duties and liabilities of such carriers under the laws of this State. (Acts 1891, chap. 113.)

NATURAL GAS.

SUPPLY REQUIRED—REGULATIONS—POWER OF COMMISSION.

LAWS 1919, P. 273.

FEBRUARY 17, 1919.

CHAPTER 71.

AN ACT in relation to persons, firms and corporations engaged in furnishing, or required by law to furnish, natural gas for public use within this state, to provide remedies for the enforcement of this act and penalties and punishment for violations thereof, and to extend the jurisdiction of the public service commission and of the courts of this state with respect thereto.

Be it enacted, etc.:

Sec. 1. That every person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use, or for the use of the public, or any part of the public, whether for domestic, industrial or other consumption, within this state, shall to the extent of his supply of said gas produced in this state (whether produced by such person or by any other person), furnished for public use within the territory of this state, and for the

use of the public and every part of the public within the territory of this state, in or from which such gas is produced, or through which said gas is transported, or which is served by such person, a supply of natural gas reasonably adequate for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed or desired to be consumed by the public, or any part of the public, within said territory in this state, and for which said consumer or consumers therein shall apply and be ready and willing to make payment at lawful rates.

Sec. 2. That in case any person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, or for the use of the public or any part of the public within this state, shall have a production or supply of natural gas which is, or probably will be, insufficient to furnish for such use (for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed by the public or any part of the public), within the territory in this state served by such person, then and in that event the public service commission shall have authority, and the same is hereby conferred on it, upon the application of any such person or any of his consumers within this state and after due hearing upon notice and proof to the satisfaction of the commission that public convenience and necessity so require, to order any other person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, and producing or furnishing natural gas for public use in said territory or transporting the same through said territory, to furnish to such person having such insufficient production or supply, natural gas for the purpose of supplying such deficiency, at and during such times, upon and at such just and reasonable terms, conditions and rates, and in such amounts, as the commission shall prescribe. And whenever, after such hearing upon notice and proof, the commission shall determine that public convenience and necessity so require, the commission shall have authority to provide for and compel the establishment of a reasonable physical connection or connections between the lines, pipes or conduits of such person having such excess supply of gas and the lines, pipes or conduits of the person having such deficiency of supply, and to require the laying and construction of such reasonable extensions of lines, pipes or conduits as may be necessary for the establishment of such physical connection or connections, and to ascertain, determine and fix the just and reasonable terms and conditions of such connection or connections, including just and reasonable rules and regulations and provision for the payment of the costs and expense of making the same or for the apportionment of such cost and expense as may appear just and reasonable. Provided, however, that no person shall, by virtue of this section, be ordered to furnish natural gas to any other person so engaged in furnishing, or required by law to furnish, natural gas for public use, except to the extent that the person so ordered to furnish natural gas shall, at the time, have a production or supply of natural gas in excess of the quantity sufficient to furnish a reasonably adequate supply to his consumers within this State; nor shall any person, by virtue of this section, be ordered to furnish natural gas to any other person so engaged in furnishing or required by law to furnish, natural gas for public use in a territory within this state, if and when the said person having said excess shall, to the extent of such excess, be ready and willing to furnish, and within such time as the commission shall prescribe shall actually furnish, to the consumers within said territory a reasonably adequate supply of natural gas.

Sec. 3. That insofar as the same shall not be in conflict with this act, all of the authority, powers, jurisdiction and duties conferred and imposed on the public service commission by the act entitled, "An act to create a public serv-

ice commission and to prescribe its powers and duties, and to prescribe penalties for the violations of the provisions of this act," passed February 21, 1913, as amended by the act entitled "An act to amend and re-enact sections one, two, three, four, five, nine, ten, fourteen, fifteen and twenty-two, of chapter nine of the Acts of 1913, creating a public service commission, prescribing its powers and duties, and penalties for violation of the provisions of said chapter, and to add thereto six sections to be known as sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight, enlarging the powers and duties of said public service commission, prescribing additional penalties and giving to the commission power to punish for contempt," passed February 10, 1915, are hereby conferred and imposed on the public service commission in respect to the subject matter of this act, or any part thereof.

Sec. 4. That in case of violation of any provision of this act any person aggrieved or affected thereby may complain thereof to the public service commission in like manner, and thereupon such procedure shall be had, as is provided in respect to other complaints to or before said commission, and all such proceedings and remedies may be taken or had for the enforcement or review of the order or orders of said commission, and for the punishment of the violation of such order or orders, as are provided by law in respect to other orders of said commission. In case of the violation of any provision of this act, the public service commission, or any person aggrieved or affected by such violation, in his own name, may apply to any court of competent jurisdiction by a bill for injunction, petition for writ of mandamus or other appropriate action, suit or proceeding, to compel obedience to and compliance with this act, or to prevent the violation of this act, or any provision thereof, pending the proceedings before said commission, and thereafter until final determination of any action, suit or proceeding for the enforcement or review of the final order of said commission; and such court shall have jurisdiction to grant the appropriate order, judgment or decree in the premises.

Sec. 5. That if any person subject to the provisions of this act shall fail or refuse to comply with any requirement of the commission hereunder, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars for each offense; and such person, or the officers of the corporation, where such person is a corporation, may be indicted for their failure to comply with any requirement of the commission under the provisions of this act, and upon conviction thereof, may be fined not to exceed five hundred dollars, and in the direction of the court, confined in jail not to exceed thirty days. Every day during which any person, or any officer, agent or employee of such person, shall fail to observe and comply with any order or direction of the commission, or to perform any duty enjoined by this act, shall constitute a separate and distinct violation of such order or direction of this act, as the case may be.

Sec. 6. That any person claiming to be damaged by any violation of this act may bring suit in his own behalf for the recovery of the damage from the person or persons so violating the same in any circuit court having jurisdiction. In any such action the court may compel the attendance of the person or persons against whom said action is brought, or any officer, director, agent or employee of such person or persons, as a witness, and also require the production of all books, papers and documents which may be useful as evidence, and in the trial thereof such witness may be compelled to testify, but any such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 7. That the word "person" within the meaning of this act shall be construed to mean, and to include, persons, firms and corporations.

Sec. 8. That the sections, provisions and clauses of this act shall be deemed separable each from the other, and also in respect to the persons, firms, corporations and consumers mentioned therein or affected thereby, and if any separable part of this act be, or be held to be unconstitutional or for any reason invalid or unforceable, the remaining parts thereof shall be and remain in full force and effect.

Sec. 9. That all acts and parts of acts in conflict with this act are hereby repealed.

OIL AND GAS WELLS.

DRILLING AND PLUGGING—REGULATIONS.

LAWS 1897, P. 114.

FEBRUARY, 26, 1897.

CHAPTER 58.

AN ACT to amend and re-enact sections 1, 2, 3, 4, and 5 of Chapter 106 of the Acts of 1891, entitled an act to regulate the drilling, maintenance and operation of wells for the production of oil, gas, salt water and mineral water, requiring the same to be plugged when abandoned or not operated, prohibiting the waste of natural gas, and imposing penalties and providing remedies for neglect or refusal to case, plug or shut in wells.

Be it enacted, etc.:

NOTE: Sections 1 to 7 of this Act are sections 3571 to 3577, inclusive, of the Code of 1913. Section 8 was not carried into the Code.

That sections 1, 2, 3, 4, and 5 of Chapter 106 of the Acts of 1891, be, and the same are hereby amended and re-enacted so as to read as follows:

Sec. 3571. Casing.

1. That when any well shall be drilled for the production of petroleum oil, natural gas, salt water or mineral water, it shall be the duty of the owner thereof, before drilling said well into the oil and gas sand, to encase such well with good and sufficient wrought iron, steel or metal casing in such manner as to exclude and shut out all surface water, salt water, or fresh water, and to prevent the same from reaching or penetrating said oil and gas sand.

Sec. 3572. Closing wells on abandoning or ceasing operation.

2. It shall be the duty of the owner of any well drilled for any of the purposes mentioned in the first section of this act, before abandoning or ceasing to operate the same and before drawing the casing therefrom, to fill up the well with sand or rock sediment to a depth of at least fifty feet above the top of the oil or gas bearing sand or rock, and drive a round, seasoned wooden plug, at least three feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing; and immediately after drawing the casing, except in regions where the well caves after the withdrawal of the casing, shall drive a round, seasoned wooden plug at a point just below where the lower end of the casing rested; which plug shall be at least three feet in length, tapering in form, and of the same diameter at the distance of eighteen inches from the smaller end, as the diameter of the hole below the point at which it is to be driven. After the plug has been properly driven there shall be filled in on top of the same, sand or rock sediment to the depth of at least fifty feet above the top of the oil or gas-bearing sand or rock.

Sec. 3573. Preventing waste of gas.

3. It shall be the duty of any owner of any well producing gas, to prevent the waste of said gas by escape, and within the time hereinafter limited, to shut in and confine the same in said well or in the pipes or pipe lines connected therewith. Said gas with respect to any well heretofore drilled shall be so shut in within ninety days after the approval of this act, and with respect to any well hereafter drilled or completed, shall be shut in within ninety days after the said well shall reach the lowest oil and gas sand defined or recognized in the gas or oil district in which said well is situated; but if any such well in the course of drilling shall pass through any oil and gas sand which produces gas above the said last or lowest oil and gas sand, then the drilling of said well to the last or lowest oil and gas sand shall be prosecuted with reasonable diligence, so that any waste of gas from the said upper sand shall not continue longer than shall be reasonably necessary; Provided, however, That this section of this act shall not apply to any well producing both oil and gas from the same sand, or to any well while it is being operated as an oil well.

Sec. 3574. Rights of adjacent owner or operator.

4. If the owner of any such well shall neglect or refuse to cause said well to be plugged or shut in pursuant to the provisions of the second and third sections of this act for a period of twenty days after a written notice so to do (which notice may be served personally upon such owner, or may be posted in a conspicuous place at or near the well), it shall be lawful for the owner or operator of any adjacent or neighboring lands to enter upon the premises where said well is situate and to cause the same to be plugged if it be an abandoned well, or shut in if not abandoned, pursuant to the provisions hereof; and the reasonable cost and expense incurred in so doing shall be paid by the owner of said well, and may be recovered as debts of like amount are by law recoverable.

Sec. 3575. Definitions.

5. The term "owner" as herein used with reference to any well, shall mean and include each and every person, persons, co-partnership, partnership, association or corporation owning, managing, operating, controlling or possessing said well as principal or principals or as lessees, contractors, employes, or agents of such principal or principals; and the terms "oil and gas sand," or "sand," as herein used shall mean and include any bed, seam, or stratum of rock, sand or other material which produces, yields, or contains in quantity sufficient to be utilized, petroleum oil and natural gas, or either of them.

Sec. 3576. Penalties.

6. Any person or persons, co-partnership, association or corporation violating any of the provisions of this act shall be liable to a penalty of one hundred dollars, to be recovered with costs of suit in a civil action to be brought in the name of the State of West Virginia, in any circuit court, and such action may be brought at the instance and upon the relation of any citizen of the state.

Sec. 3577. Jurisdiction of circuit court—Restraining waste, etc.

7. Aside from and in addition to the imposition of any penalties under this act, it shall be the duty of any circuit court in the exercise of its equitable jurisdiction, to hear or determine any bill or bills in equity which may be filed to restrain the waste of natural gas in violation of this act, and to grant relief by injunction or by other decrees or orders, in accordance with the principles and practice in equity. The plaintiff in such bill shall have sufficient standing to maintain the same if he shall aver and prove that he is interested in the lands situated within the distance of one mile from said well, either as an owner of such land in fee simple, or as an owner of leases thereof or of rights therein for the production of oil and gas or either of them.

8. All acts or parts of acts inconsistent herewith, are hereby repealed.

PIPE LINES.

COMPANIES—INCORPORATION.

CROSSING AND CONNECTIONS—COMPENSATION.

OBSTRUCTION OF ROADS—REMOVAL.

TRANSPORTATION AND STORAGE OF OIL—REGULATIONS.

COMPANIES—INCORPORATION.

CODE 1913, P. 1166.

CHAPTER 54.

Sec. 2895. Laws governing.

1. Joint-stock companies, incorporated under this chapter, shall be subject to the provisions of the fifty-second and fifty-third chapters of the Code, so far as the same are applicable. (Acts 1863, Chap. 83, Acts 1881, Chap. 17.)

Sec. 2896. Purposes of incorporation.

2. Such companies may be incorporated for the following purposes: * * *

II. For constructing and maintaining * * * lines of piping or tubing for the transportation of oils * * * and carrying on the business properly pertaining to such works and improvements. * * * (Acts 1883, Chap. 58.)

* * * * *

CROSSINGS AND CONNECTIONS—COMPENSATION.

CODE 1913, P. 1131 (VOL. 2).

CHAPTER 52.

* * * * *

Sec. 2820. Crossings and connections—Compensation.

11. If * * * any company organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, deem it necessary in the construction of its work * * * to cross any other railroad, turnpike, or canal, or pipe line, or any state or county road at grade or otherwise, it may do so; provided, its work be so constructed as not to impede the passage or transportation of persons or property along the same. If any such company desire that the course of any other railroad, turnpike, canal, pipe line, or state road, or any stream which is not a public highway, should be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof, or the construction of a parallel work, the alteration may be made in such manner as may be agreed between the company desiring such alteration and the other railroad, turnpike, or canal company, or pipe line company, or the board of public works in the case of a state road, or the owner of the land to be affected by the alteration of the course of such stream. In case the parties interested fail to agree upon such crossing or alteration as is desired, the company desiring it may bring suit in equity, and in such suit the court may, in a proper case, decree that such, or any proper crossing, or alteration, may be made upon payment of damages to be ascertained as provided in chapter forty-two of the code, and the company desiring such crossing or alteration may thereupon proceed under said chapter to obtain the right to make such crossing or alteration. If such crossing or alterations as is allowed by this section, shall cause damage to any company, or to the owner of any lands,

* * * the pipe line company first mentioned shall pay such damages; but any county road may be altered by any such company for the purposes aforesaid, whenever it shall have made an equally convenient road in lieu thereof. (Acts 1907, Reg. Sess. Chap. 43).

OBSTRUCTIONS OF ROADS—REMOVAL.

CODE SUPPLEMENT 918, P. 392.

CHAPTER 43.

* * * * *
 Sec. 1940-163. Pipe lines along roads—Duties of companies.

163. It shall be the duty of all pipe line companies whose lines shall have been laid across or along any public road in this state for the purpose of transporting any natural gas, oils, * * * or any other substance, to fill up all excavations made thereby and to make the public road in all respects as good as it was before the excavation was made and to keep the same. If such obstructions are not removed or such poles or wires are not removed, or re-set, or such excavations are not properly filled and maintained within thirty days after the serving of a notice, by the county road engineer personally or by mail upon such owner or occupant or upon such company at its principal place of business or an agent of the company within the county, requesting the same to be done, the county road engineer shall cause such obstructions to be removed and such poles and wires to be re-set and such repairs on the excavation to be made as may be necessary to place the same in its original condition. The expenses thereby incurred shall be paid, in the first instance, out of the moneys levied and collected and available therefor and the amount thereof shall be charged against such owner, occupant or company and levied and collected, as provided in section one hundred and sixty-four of this chapter. (Acts 1909, Ch. 52; Acts 1917, Reg. Sess., Ch. 66, Sec. 163.)

Sec. 1940-163a. Gas lines--Rights in roads.

163a. It shall be unlawful for the county court of any county in this state or any other tribunal acting in lieu thereof, to grant any permit or franchise to any corporation, individual or person in this state, or to any foreign corporation, the right to operate or maintain any gas main line or lines along any of the public roads or highways in this state, with a diameter exceeding four inches; provided, however, that this act shall not prevent any oil company or other person transporting oil or gasoline along the public highways of this state, and that nothing herein contained shall be construed to give such company, an unlimited franchise without paying to the land owners through whose lands such road runs or passes, the usual and customary right of way paid therefor, or to be paid to the land owners for such right of way; such grant, if made, shall only be construed to give such company or person the right to use the easement in said public road and not to vest any right of eminent domain therein. The purpose of this act being to secure to the people of this state, the free and unlimited use of the public roads without let or hindrance or obstruction from any one. (Acts 1917, Reg. Sess., Chap. 66, Sec. 163a.)

TRANSPORTATION AND STORAGE OF OIL—REGULATIONS.

LAWS 1891, P. 100.

FEBRUARY 27, 1891.

CHAPTER 44.

AN ACT to amend and re-enact Chapter 27 of the Acts of 1879, entitled "An Act prescribing regulations for the transportation of petroleum or other oils or liquids by railroad companies or transportation company or through pipes of iron or other material constructed for that purpose."

Be it enacted, etc.:

* * * * *
NOTE: This amendatory act was carried into the Code of 1913 and is given under the sections of the Code.

CODE 1913, P. 1422 (VOL. 2).

CHAPTER 62C.

Sec. 3549. Persons and companies subject to provisions of act.

1. Every person, corporation or company now engaged or who shall hereafter engage or continue in the business of transporting or storing petroleum, by means of pipe line or lines or storage by tanks, shall be subject to the provisions of this act and shall conduct such business in conformity herewith; and the word company whenever used in this act shall be construed to include persons and corporations. (Acts 1879, Ch. 27, Sec. 1; Acts 1891, Ch. 44.)

Sec. 3550. Duty to receive for transportation—Connections with tanks or receptacles—Delivery.

2. Any company heretofore or hereafter organized for the purpose of transporting petroleum or other oils or liquids by means of pipe line or lines, shall be required to accept all petroleum offered to it in merchantable order in quantities of not less than two thousand gallons at the wells where the same is produced, making at its own expense all necessary connections with the tanks or receptacles containing such petroleum, and to transport and deliver the same at any delivery station, within or without the State, on the route of its line of pipes which may be designated by the owners of the petroleum so offered. (Acts 1879, Ch. 27, Sec. 2; Acts 1891, Ch. 44.)

Sec. 3551. Inspection—Grading and measurement before transportation—Receipts—Deductions for waste.

3. All petroleum of a gravity of thirty-five degrees Baumé or under, at a temperature of sixty degrees Fahrenheit, offered for transportation by means of pipe line or lines, shall, before the same is transported, as provided by section two of this act, be inspected, graded and measured at the expense of the pipe line company, and the company accepting the same for transportation shall give to the owner thereof a receipt stating therein the number of barrels or gallons so received, and the grade, gravity and measurement thereof, and within a reasonable time thereafter, upon demand of said owner or his assigns, shall deliver to him at the point of delivery a like quantity and grade or gravity of petroleum in merchantable condition as specified in said receipt; except that the company may deduct for waste one per centum of the amount of petroleum specified in such receipt. (Acts 1879, Ch. 27, Sec. 3; Acts 1891, Ch. 44.)

Sec. 3552. Charge for transportation.

4. The charge for receiving, transporting and delivering petroleum of the gravity of thirty-five degrees Baumé or under, at a temperature of sixty degrees Fahrenheit, by means of pipe line or lines shall not exceed one cent per barrel of forty-two gallons per mile: Provided, That if said rate should amount for the whole distance transported to less than ten cents per barrel, then the sum of ten cents per barrel may be charged; and, provided that if the distance be

over twenty miles and not more than thirty miles, one-half cent per barrel may be charged for every mile over twenty miles: And provided further, That if the distance be over thirty miles, the maximum charge shall not exceed twenty-five cents. (Acts 1879, Ch. 27, Sec. 4; Acts 1891, Ch. 44.)

Sec. 3553. Charge for storage.

5. Any company engaged in storing petroleum of a gravity of thirty-five degrees Baumé or under, at a temperature of sixty degrees Fahrenheit, by means of tanks, shall be permitted to charge for storage one cent per barrel per month or part of a month, unless the same is removed within fifteen days from the date when said oil is received into the custody of such company, and shall be allowed for evaporation and waste one-half of one per centum of the oil per month unless removed within thirty days from the date of the receipt of such petroleum; but no company engaged in the business of storing petroleum of the gravity of thirty-five degrees Baumé or under, at a temperature of sixty degrees Fahrenheit, shall charge for storage any amount in excess of that authorized by this section. (Acts 1879, Ch. 27, Sec. 5; Acts 1891, Ch. 44.)

Sec. 3554. Inspection and measurement before transportation—Receipts—Contents—Deductions for waste—Delivery—Liability for loss.

6. All petroleum of a gravity exceeding thirty-five degrees Baumé at a temperature of sixty degrees Fahrenheit, offered for transportation by means of pipe line or lines, shall be inspected and measured at the expense of the company transporting the same, before the same is transported; and the company accepting the same for transportation, shall give to the owner thereof, or to the person in charge of the well or wells from which such petroleum has been produced and run, a ticket signed by its gauger, stating the number of feet and inches of petroleum which were in the tank or receptacle containing the same before the company began to run the contents from said tank, and the number of feet and inches of petroleum which remained in the tank after said run was completed; and all deductions made for water, sediment or the like, shall be made at the time such petroleum is measured; and within reasonable time thereafter said company shall, upon demand, deliver from the petroleum in its custody to the owner thereof, or to his assignee, at such delivery station on the route of its line of pipes as he may elect, a quantity of merchantable petroleum, equal to the quantity of petroleum run from said tank, or receptacle, which shall be ascertained by computation; except that the said company transporting said petroleum may deduct for evaporation and waste two per centum of the amount of petroleum so run, as shown by said run ticket; and except that in case of loss of any petroleum while in the custody of said company caused by fire, lightning, storm or other like unavoidable cause, such loss shall be borne pro rata by all the owners of such petroleum at the time thereof. But said company shall be liable for all petroleum that is lost while in its custody by the bursting of pipes or tanks, or by leakage from pipes or tanks; and it shall also be liable for all petroleum lost from tanks at the wells where produced before the same has been received for transportation, if such loss be due to faulty connections made to said tanks; and said company shall be liable for all petroleum lost by the overflow of any tanks with which pipe line connections have been made, if such overflow be due to the negligence of such company; and for all the petroleum lost by the overflow of any tanks with which pipe line connections should have been made under the provisions of this act, but were not so made by reason of negligence or delay on the part of said company. (Acts 1879, Ch. 27, Sec. 6; Acts 1891, Ch. 44.)

Sec. 3555. Charge for transportation and delivery.

7. Any company engaged in transporting petroleum of a gravity exceeding thirty-five degrees Baume at a temperature of sixty degrees Fahrenheit, by

means of pipe line or lines, may charge for receiving, transporting and delivering such petroleum not to exceed twenty cents per barrel for each barrel of forty-two gallons: Provided, however, if where the point of delivery is without this State, more than twenty cents per barrel be charged, then there shall be charged no greater sum than ten cents per barrel for receiving such oil and transporting the same that part of the distance which is within this State. (Acts 1891, Ch. 44, Sec. 7.)

Sec. 3556. Charge for transportation and delivery—Deductions for waste and evaporation.

8. Any company engaged in transporting or storing petroleum of a gravity exceeding thirty-five degrees Baumé at a temperature of sixty degrees Fahrenheit, by means of pipe line or lines and tanks, shall make no charge for storing said petroleum until after the expiration of the month following that in which the oil was run and received into custody. But it may charge for storing said petroleum of a gravity exceeding thirty-five degrees Baume at a temperature of sixty degrees Fahrenheit, for every day after the expiration of the month following that in which said oil shall have been run and received into custody, not to exceed one-fortieth of one cent per barrel of forty-two gallons for each day thereafter said oil shall continue to remain in its custody. And such company shall make no charge for water, sediment, waste and the like in transporting or storing any petroleum after the same has been gauged or measured, before the run of the same is made, except the two per centum for waste and evaporation hereinbefore mentioned. (Acts 1891, Ch. 44, Sec. 8.)

Sec. 3557. Discrimination prohibited.

9. No company engaged in transporting or storing petroleum by means of pipe line or lines and tanks shall charge, demand or receive from any corporation, company, association, person or persons a greater or less rate for the transportation or storage of petroleum than it charges, receives or demands from any other corporation, company, association, person or persons for the transportation or storage of petroleum of like gravity; and any shift, device or subterfuge made or attempted for the purpose of avoiding the provisions of this section shall be void. (Acts 1879, Ch. 27, Sec. 9; Acts 1891, Ch. 44.)

Sec. 3558. Penalties—Damages for excessive charges.

10. Any company, its officers or agents, wilfully violating any of the provisions of sections two, three, four, five, six, seven, eight or nine, of this act, or charging for any of the services provided for in any of said sections, an amount in excess of that authorized by said sections, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars, nor more than one thousand dollars, and shall moreover be liable to the party aggrieved for all damages sustained by him by reason of such excessive charges. (Acts 1891, Ch. 44, Sec. 10.)

Sec. 3559. Lien for charges.

11. Any company engaged in transporting or storing petroleum, shall have a lien upon said petroleum until all charges for transporting and storing said petroleum are paid. (Acts 1879, Ch. 27, Sec. 11; Acts 1891, Ch. 44.)

Sec. 3560. Negotiability of accepted orders and certificates.

12. Accepted orders and certificates for petroleum, issued by any company engaged in the business of transporting and storing petroleum in this State, by means of pipe line or lines and tanks, shall be negotiable, and may be transferred by endorsement, either in blank or to the order of another, and any person to whom the said accepted orders and certificates shall be so transferred, shall be deemed and taken to be the owner of the petroleum therein specified. (Acts 1879, Ch. 27, Sec. 12; Acts 1891, Ch. 44.)

Sec. 3561. Receipts and certificates—Unauthorized issuance—Duplicates—Surrender—Loss—Cancellation.

13. No receipt, certificate, accepted order or other voucher, shall be issued or put in circulation, nor shall any order be accepted or liability incurred for the delivery of any petroleum, crude or refined, unless the amount of such petroleum represented in or by such receipt, certificate, accepted order, or other voucher or liability, shall have been actually received by and shall then be in the tanks and lines, custody and control of, the company issuing or putting in circulation such receipt, certificate, accepted order or voucher, or written evidence of liability. No duplicate receipt, certificate, accepted order or other voucher shall be issued or put in circulation, or any liability incurred for any petroleum, crude or refined, while any former liability remains in force, or any former receipt, certificate, accepted order or other voucher shall be outstanding and uncanceled, except such original paper shall have been lost, in which case a duplicate plainly marked "duplicate" upon the face, and dated and numbered as the lost original was dated and numbered, may be issued. No receipt, voucher, accepted order, certificate or written evidence of liability of such company on which petroleum, crude or refined, has been delivered, shall be re-issued, used or put in circulation. No petroleum, crude or refined, for which a receipt, voucher, accepted order, certificate or liability incurred, shall have been issued or put in circulation, shall be delivered, except upon the surrender of the receipt, voucher, order or liability representing such petroleum, except upon affidavit of loss of such instrument made by the former holder thereof. No duplicate receipt, certificate, voucher, accepted order or other evidence of liability, shall be made, issued or put in circulation until after notice of the loss of the original, and of the intention to apply for a duplicate thereof, shall have been given by advertisement over the signature of the owner thereof in at least four successive issues of a daily or weekly newspaper published in the country where such duplicate is to be issued. Every receipt, voucher, accepted order, certificate or evidence of liability, when surrendered, or the petroleum represented thereby delivered shall be immediately cancelled by stamping and punching the same across the face in large and legible letters with the word "cancelled," and giving the date of such cancellation; and it shall then be filed and preserved in the principal office of such company for the period of six years. (Acts 1879, Ch. 27, Sec. 13; Acts 1891, Ch. 44.)

Sec. 3562. Sale and incumbrance—Consent of owner.

14. No company, its officers or agents, or any person or persons engaged in the transportation or storage of petroleum, crude or refined, shall sell or encumber, ship, transfer, or in any manner remove or procure, or permit to be sold, encumbered, shipped, transferred, or in any manner removed from the tanks or pipes of said company engaged in the business aforesaid, any petroleum, crude or refined, without the written order of the owner or owners thereof. (Acts 1891, Ch. 44, Sec. 14.)

Sec. 3563. Monthly statements.

15. Every company now or hereafter engaged in the business of transporting by pipe lines, or storing crude or refined petroleum in this State, shall, on or before the tenth day of each month, make or cause to be made and posted in its principal business office in this State in an accessible and convenient place for the examination thereof by any person desiring such examination, and shall keep so posted continuously until the next succeeding statement is so posted, a statement plainly written or printed, signed by the officer, agent, person or persons having charge of the pipes and tanks of said company, and also by the officer or officers, person or persons, having charge of the books and accounts

thereof, which statement shall show in legible and intelligent form the following details of the business:

First. How much petroleum, crude or refined, was in the actual and immediate custody of such company at the beginning and close of the previous month, and where the same was located or held; describing in detail the location and designation of each tank or place of deposit, and the name of its owner.

Second. How much petroleum, crude or refined, was received by such company during the previous month.

Third. How much petroleum, crude or refined, was delivered by such company during the previous month.

Fourth. For how much petroleum, crude or refined, such company was liable for the delivery or custody of to other corporations, companies or persons at the close of the month.

Fifth. How much of such liability was represented by outstanding receipts or certificates, accepted orders or other vouchers, and how much was represented by credit balances.

Sixth. That all the provisions of this act have been faithfully observed and obeyed during the said previous month.

The statement so required to be made shall also be sworn to by said officers, agent, person or persons before some officer authorized by law to administer oaths, which oath shall be in writing, and shall assert the familiarity and acquaintance of the deponent with the business and condition of such company, and with the facts sworn to, and that the statements made in the said report are true. (Acts 1891, Ch. 44, Sec. 15.)

Sec. 3564. Monthly statements—Specification of amounts—Duty to keep on hand oil equal to aggregate outstanding receipts, etc.

16. All amounts in the statements required by this act, when the petroleum is handled in bulk, shall be given in barrels and hundredths of barrels reckoning, forty-two gallons to each barrel, and when such petroleum is handled in barrels or packages, the number of such barrels or packages, shall be given, and such statements shall distinguish between crude and refined petroleum, and give the amount of each. Every company engaged in the business aforesaid, shall at all times have in their pipes and tanks an amount of merchantable oil equal to the aggregate of outstanding receipts, certificates, accepted orders, vouchers, acknowledgments, evidences, of liability, and credit balances, on the books thereof. (Acts 1891, Ch. 44, Sec. 16.)

Sec. 3565. Penalties for unauthorized issuance of receipts.

17. Any company, its officers or agents, who shall make or cause to be made, sign or cause to be signed, issue or cause to be issued, put in circulation or cause to be put in circulation, any receipt, accepted order, certificate, voucher or evidence of liability, or shall sell, transfer or alter the same, or cause such sale, transfer or alteration, contrary to the provisions of this act, or shall do or cause to be done, any of the acts prohibited by the thirteenth section of this act, or omit to do any of the acts by said section directed, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not exceeding one thousand dollars, and undergo imprisonment not less than ten days or exceeding one year. (Acts 1891, Ch. 44, Sec. 17.)

Sec. 3566. Penalties for unauthorized sales, incumbrances, etc.

18. Any company, its officers, or agents, who shall sell, encumber, transfer or remove, or cause or procure to be sold, transferred or removed from the tanks or pipes of such company, any petroleum, crude or refined, without the written consent of the owner or owners thereof, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of one

thousand dollars and undergo an imprisonment of not less than ninety days and not exceeding one year. (Acts 1891, Ch. 44, Sec. 18.)

Sec. 3567. Penalties for failure to make reports.

19. Any company engaged in the business of transporting by pipe lines or storing petroleum, crude or refined, and each and every officer or agent of such company who shall neglect or refuse to make the report and statement required by the fifteenth section of this act, within the time and the manner directed by said section, shall forfeit and pay the sum of one thousand dollars, and in addition thereto the sum of five hundred dollars for each day after the tenth day of the month that the report and statement required by said section fifteen shall remain unposted as therein directed. (Acts 1891, Ch. 44, Sec. 19.)

Sec. 3568. Examination of companies.

20. The holder of any receipts, certificates, accepted orders, or other vouchers or evidences of liability, or the owners of oil in the custody of any such company described and referred to in this act, to an amount not less in the aggregate than ten thousand barrels of petroleum, crude or refined, may at any time present their petition to the circuit court of any county wherein such company may be engaged in business or have its principal office, or to any judge of said court in vacation, setting forth under oath, their ownership as aforesaid and desire for the appointment of examiners for the purposes of this section; and upon such petitioners giving bonds to be approved by the court or by the judge granting the order, that they will pay all expenses and costs that may accrue in the proceedings, the court, or any judge thereof in vacation, shall forthwith appoint such number of impartial, disinterested and expert persons as may be asked for in said petition, as examiners, and shall fix the amount of their compensation; and the court or judge by order, shall direct and empower such examiners to immediately inspect and measure all the petroleum, crude or refined, in the custody of any such company named in the said petition, on the day of such inspection, and to examine the books of said company relating to the issue and cancellation of receipts, certificates, accepted orders, vouchers, or evidences of liability, and to its open accounts with persons, companies or corporations with whom it deals in the receipt and delivery of crude or refined petroleum. Such examiners when so appointed shall each immediately be sworn before any authorized officer to perform his duties with fidelity and according to law, which oath shall be reduced to writing, signed and filed with the clerk, and they shall then make immediate inspection, examination and measurement, as required by said petition and order and by this act. And it shall be the duty of each and every such company, its officers, agents and employes, to give immediately upon request of any such authorized examiners, all the information demanded in said petition and required by this act to be reported, and also full access to the offices, tanks, pipes, books and accounts of such company. Upon the completion of such inspection, measurement and examination, it shall be the duty of the examiner or examiners, or in the event of the death, resignation, declination or inability to act of any of them, then the others, or any of them within ten days after their appointment to make to the court appointing them, a written, signed and sworn report of such examination, inspection and measurement, and file the same of record with the clerk thereof, which report shall show:

First. How much merchantable and also how much unmerchantable petroleum, crude or refined, they found in the tanks and lines of such company, and where the same was located or held by description of tanks.

Second. For the custody or delivery of how much crude or refined petroleum they found such company to be liable at the same date.

Third. How much of such liability was represented by outstanding receipts, accepted orders, certificates, vouchers or evidence of liability, and how much by credit balances. (Acts 1891, Ch. 44, Sec. 20.)

Sec. 3569. Offenses by examiners.

21. Any examiner so appointed as aforesaid who shall make any false examination, inspection, measurement or report, or shall make known directly or indirectly to any person any information he may become possessed of in the course of his examination, inspection or measurement, except by means of his report made and filed in accordance with this act, or who shall receive directly or indirectly any fee, reward or benefit, or the promise of any fee, reward or benefit, other than that provided by this act, for the performance or non-performance of any duty or thing contemplated by this act, or connected with his said employment, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of one thousand dollars, and may at the discretion of the court, be confined in jail not to exceed one year. (Acts 1891, Ch. 44, Sec. 21.)

Sec. 3570. Offenses by examiners—Refusal to furnish information etc.—Penalties.

22. Any officer, agent, manager, superintendent or employe of any company engaged in the transportation by pipe lines of petroleum, crude or refined, or the storage thereof, who shall refuse or neglect after demand made to give to any authorized examiner full and free access to any and all offices, pipes, tanks, accounts, books and vouchers required by him in the pursuance of his appointment and this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not exceeding one thousand dollars, and may at the discretion of the court be confined in jail not to exceed one year. (Acts 1891, Ch. 44, Sec. 22.)

PUBLIC SERVICE COMMISSION.

POWERS—CORPORATIONS—PIPE LINES—REGULATIONS.

LAWS 1913, P. 53.

FEBRUARY 21, 1913.

CHAPTER 9.

AN ACT to create a public service commission and to prescribe its powers and duties, and to prescribe penalties for the violation of the provisions of this act.

Be it enacted, etc.:

FIRST AMENDATORY ACT.

LAWS 1915, P. 38.

FEBRUARY 25, 1915.

CHAPTER 8.

AN ACT to amend and re-enact sections one, two, three, four, five, nine, ten, fourteen, fifteen and twenty-two, of chapter nine of the acts of 1913, creating a public service commission, prescribing its powers and duties, and penalties for violation of provisions of said Chapter, and to add thereto six sections to be known as sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight, enlarging the powers and duties of said public service commission, prescribing additional penalties and giving to the commission power to punish for contempt.

Be it enacted, etc.:

SECOND AMENDATORY ACT.

LAWS 1915, P. 654.

MAY 29, 1915.

(Second extraordinary session.)

AN ACT to amend and re-enact section 15 of chapter 8 of the Acts of 1915, regular session, creating a public service commission, prescribing its powers and duties and penalties for violation of the provisions of said chapter.

Be it enacted, etc.:

NOTE: The original sections of the Act of February 21, 1913, are given under the section numbers as compiled in the Code of 1913, and the sections of the amendatory acts of February 25, 1915, and of May 29, 1915, are given under the section numbers as compiled in the Code Supplement of 1918, as follows:

Sec. 636. Commission created.

1. There shall be, and there is hereby created, a public service commission of West Virginia, and by that name the commission may sue and be sued. * * * (Act 1913, Sec. 1, as amended by Act 1915, Sec. 1.)

Sec. 637. Rules of procedure, etc.—Seal.

2. The commission shall prescribe the rules of procedure and for taking evidence in all matters that may come before it, and enter such orders as may be just and lawful.

In the investigations, preparations and hearings of cases, the commission may not be bound by the strict technical rules of pleading and evidence, but in that behalf it may exercise such discretion as will facilitate their efforts to understand and learn all the facts bearing upon the right and justice of the matters before them. * * * (Acts 1913, sec. 2, as amended by Acts 1915, Sec. 2.)

Sec. 638. Jurisdiction—Public service corporation defined.

3. The jurisdiction of the commission shall extend to and include: * * *

(b) * * * pipe line companies for the transportation of oil, gas * * * ; and

(c) Gas companies. * * * for lighting, heating or power purposes. * * *

The words "Public Service Corporation" used in this act shall include all persons, associations of persons, firms, corporations, municipalities and agencies engaged or employed in any business herein enumerated, or in any other public service business whether above enumerated or not, whether incorporated or not. (Acts 1913, Sec. 3, as amended by Acts 1915, Sec. 3.)

Sec. 639. General duties of public service concerns.

4. Every person, firm or corporation engaged in a public service business in this state shall establish and maintain adequate and suitable facilities, safety appliances or other suitable devices, and shall perform such service in respect thereto as shall be reasonable, safe and sufficient for the security and convenience of the public, and the safety and comfort of its employes, and in all respects just and fair, and without any unjust discrimination or preference. All charges, tolls, fares and rates shall be just and reasonable, and no change shall be made in any tariffs, rates, joint rates, fares, tolls, schedules or classifications in force at the time this act takes effect, except as hereinafter provided. * * * (Acts 1913, Sec. 4, as amended by Acts 1915, Sec. 4.)

Sec. 640. Powers and orders of commission.

5. The commission is hereby given power to investigate all methods and practices of public service corporations or other persons subject to the provisions of this act; to require them to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law; and to require copies of all reports, rates, classifications, schedules and time tables in effect and used by such corporation or other person, to be filed with the commission,

and all other information desired by the commission, relating to such investigation and requirements.

The commission may compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the supreme court of appeals direct, and such proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge or toll which is unjust or unreasonable and may prescribe such rate, fare, charge or toll as would be just and reasonable, and change or prohibit any practice, device or method of service in order to prevent undue discrimination or favoritism as between persons, localities or classes of freight; provided, that the commission shall not reduce any rate, toll or charge within ten years after the completion of the * * * plant to be used in the public service below a point which would prevent such public service corporation, person, persons or firm from making a net earning of eight per centum per annum on the cost of construction and equipment of said * * * plant. But in no case shall the rate, toll or charge be more than the service is reasonably worth, considering the cost thereof.

Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in such order, or until revoked or modified by the commission, unless the same be suspended, modified or revoked by order or decree of a court of competent jurisdiction. (Acts 1913, Sec. 5; as amended by Acts 1915, Sec. 5.)

Sec. 641. Rebates prohibited.

6. No public service corporation subject to the provisions of this act shall, directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person, firm or corporation, a greater or less compensation for any service rendered or to be rendered, than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service under the same or substantially similar circumstances and conditions. (Acts 1913, Sec. 6.)

Sec. 642. Preferences, etc., prohibited.

7. It shall be unlawful for any public service corporation subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular character of traffic or service, in any respect whatsoever, or to subject any particular person, firm, corporation, company or locality, or any particular character of traffic or service, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (Acts 1913, Sec. 7.)

* * * * *

Sec. 644. Rate changes—Suspension—Burden of proof.

9. No person, firm or corporation subject to the provisions of this act shall modify, change, cancel or annul any rate, joint rate, fares, classifications, charge or rental except after thirty days' notice to the commission and the public, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares or charges shall go into effect, unless a written protest is made by the public service commission, in which case the proposed rate shall stand suspended until it is determined by the commission whether or not such proposed rate is just or reasonable. Provided, in lieu of the written protest, the commission may enter an order prohibiting such person, firm or corporation from putting such proposed new rate into effect pending the hearing and final decision of the matter and the proposed changes shall be shown by printing new schedules, or shall be plainly

indicated upon the schedules in force at the time, and kept open to public inspection; provided, however, that the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

Whenever there shall be filed with the commission any schedule stating a change in the rates, fares or charges, or joint rates, fares or charges, or stating a new individual or joint rate, fare or charge or joint classification or any new individual or joint regulation or practice affecting any fare, rate or charge the commission shall have, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or other form of pleading by the interested parties, but upon reasonable notice to enter upon a hearing concerning the propriety of such rate, fare, charge, classification, regulation or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers or public service corporation affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, fare, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, fare, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, fare, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation or practice had become effective. * * * (Laws 1913, Sec. 9, as amended by Acts 1915, Sec. 9.)

Sec. 645. Supervision of pipe lines and gas * * * companies.

10. The commission shall have general supervision of all persons, firms or corporations having authority under any charter or franchise of any city, town or municipality, county court, or tribunal in lieu thereof, or otherwise, to lay down and maintain * * * pipes, conduits, ducts or other fixtures in, over or under streets, highways or public places for the purpose of furnishing and distributing gas, * * * and of oil and gas pipe lines. * * *

The commission shall have power, through its members, inspectors, or employees to enter in, upon and inspect the property, buildings, plats, fixtures, power houses and offices of any such persons, firms, corporations or municipalities, and shall have power to examine the books and affairs to be investigated by it, and shall have the power, either as a commission or by any of its members, to subpoena witnesses and take testimony and administer oaths to any witness in any proceeding or examination instituted before it or conducted by it in reference to any matter within its jurisdiction. * * * (Acts 1913, Sec. 10, as amended by Acts of 1915, Sec. 10.)

* * * * *

Sec. 649. Value of public service property to be furnished board of public works.

14. The commission shall collect annually full and complete information of the value of all property owned and controlled by any person or public service corporation subject to the provisions of this act, and tabulate in statistical form and furnish the same to the board of public works on or before the first day of June in each year, which information shall be used by the said board of public works in fixing the value of the property of such person or public service corporation for assessment for the purpose of taxation as provided by law. (Acts 1913, Sec. 14; as amended by Acts 1915, Sec. 14.)

Sec. 650. Special license fees from public service corporations—Salaries.

15. There shall be paid by all public service corporations subject to the provisions of this act a special license fee in addition to those now required by law. Such fees shall be fixed by the auditor, upon each of such public service corporations, according to the value of its property, as ascertained by the last preceding assessment, and shall be apportioned among such public service corporations upon the basis of such valuation, so as to produce a revenue of sixty thousand dollars per annum, or so much thereof as may be necessary, which shall be paid on or before the twentieth day of January in each year. * * * (Acts 1913, Sec. 15, amended by the Act of February 25, 1915, p. 38, and again amended by Act of May 29, 1915, Laws 1915, p. 654.)

* * * * *

Sec. 652. Penalties for violations of act.

17. Every officer, agent, employe, or stockholder of any such public service corporation, and every patron, passenger, shipper or consignee, or other person, who shall violate any provisions of this act, or who procures, aids, or abets any violation of any such provision by any such public service corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or be confined in jail not more than one year, or both, in the discretion of the court. When any person is convicted of a violation of any provision of this act, and it is alleged in the indictment on which he is convicted, and is admitted, or by the jury found that he has been before convicted of the violation of any provisions hereof committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than two hundred nor more than two thousand dollars, or be confined in jail not less than thirty days nor more than one year, or both, in the discretion of the court. When any person is convicted of a violation of any provision of this act and it is alleged in the indictment upon which he is convicted, and is admitted, or by the jury found that he has been twice, or oftener, before convicted of a violation of any provisions hereof committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than five hundred nor more than five thousand dollars, and shall, in addition thereto, be confined in the county jail not less than three months nor more than one year. (Acts 1913, Sec. 17.)

Sec. 653. Complaints for damages to commission—Suits.

18. Any person, firm or corporation claiming to be damaged by any violation of this act by any public service corporation, subject to the provisions of this act, may make complaint to the commission, as provided herein, and bring suit in his own behalf for the recovery of the damages for which such public service corporation may be liable under this act in any circuit court having jurisdiction. * * * (Acts 1913, Sec. 18.)

* * * * *

Sec. 656a. Fixing just and reasonable rates.

22. The commission shall have the power to enforce, originate, establish, modify, change, adjust and promulgate tariffs, rates, joint rates, tolls and schedules for all public service corporations. * * * (Act 1915, Sec. 22.)

Sec. 656b. Fixing just and reasonable practices—Punishment.

23. Whenever, under the provisions of this act, the commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient or unjustly discriminatory, or otherwise in violation of any provisions of this act, or shall find that any service is inadequate, or that any service which can be reasonably demanded can not be obtained, the commission shall determine and declare, and by order fix, reasonable measurements, regula-

tions, acts, practices or service, to be furnished, imposed, observed and followed in the state in lieu of those found to be unjust, unreasonable, in sufficient or unjustly discriminatory, inadequate or otherwise in violation of this act; and shall make such other order respecting the same as shall be just and reasonable.

If any public service corporation, or other person, shall fail or refuse to comply with the order of the commission under the provisions of the last two sections, such public service corporation or other person in addition to the penalties provided for in this act, shall be subject to a fine not to exceed five thousand dollars. (Acts 1915, Sec. 23.)

Sec. 656c. Use of equipment by another corporation—Physical connections between.

24. Whenever, after hearing, upon notice, the public service commission shall determine that public convenience or necessity requires that conduits, subways, * * * or other equipment on, over or under any street or highway belonging to or used by any public service corporation, should be used in part by another public service corporation for the operation of its property in any locality not reached by the lines or connections of one of said corporations or a municipality, the said public service commission may, by order, fix the just and reasonable terms and conditions of such use, and prescribe the compensation to be paid therefor. * * * (Acts 1915, Sec. 24.)

Sec. 656d. Use of equipment, by another corporation—Physical connections between.

25. Such use so ordered shall be permitted and such physical connection or connections so ordered shall be made; and the terms, conditions and compensation so prescribed for such use and such physical connections shall be the lawful conditions and compensation for such use and physical connection, and the lawful terms and conditions upon which such use and physical connections shall be had and made. Any such order may be from time to time revised by the commission upon application of any interested party or upon its own motion. (Acts 1915, Sec. 25.)

* * * * *

Sec. 656f. Contempt proceedings against disobedient corporations—Appeals.

27. Any person or public service corporation, firm or association who shall violate any of the orders or findings of the commission shall be guilty of contempt and the commission shall have the same power to punish therefor as is now conferred on the circuit court, with the right of appeal in all cases to the supreme court. (Acts 1915, Sec. 27.)

Sec. 656g. Punishments for violating act—Penalties.

28. If any person, firm or corporation subject to the provisions of this act shall fail or refuse to comply with any requirement of the commission hereunder, for which a penalty has not been hereinbefore prescribed, such person, firm or corporation shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars for each offense; and such person or firm and the officers of such corporation may be indicted for their failure to comply with any requirement of the commission under the provisions of this act, and upon conviction thereof, may be fined not to exceed five hundred dollars, and, in the discretion of the court, confined in jail not to exceed thirty days.

Every day during which any person, firm or corporation, or any officer, agent or employee thereof shall fail to observe and comply with any order or direction of the commission, or to perform any duty enjoined by this act, shall constitute a separate and distinct violation of such order or direction of this act, as the case may be. * * * (Acts 1915, Sec. 28.)

TAXATION.

ASSESSMENT OF OIL AND GAS LANDS—RETURNS.

CODE 1913, P. 363 (VOL. 1).

CHAPTER 29.

* * * * *

Sec. 896. Assessment of all property—Valuation.

12. All property, both real and personal, in any county whether it be assessed by the assessor, assistant assessor, by the board of public works or any other person or officer or tribunal on and after July 1, 1911, shall be assessed as of the 1st day of April, at its true and actual value. * * * (Acts 1911, Chap. 64.)

* * * * *

CODE 1913, PP. 356, 409 (VOL. 1).

CHAPTER 29.

ASSESSMENT OF TAXES.

* * * * *

Sec. 923. Assessment of land owned by different owners—Assessment of mineral * * * land.

39. When a tract of land becomes the property of different owners in several parcels, the assessor shall assess the several parcels separately to the individual owners thereof, giving to each of said parcels its true and actual value according to the rule prescribed in section twelve of this chapter. Whenever any person becomes the owner of the surface, and another or others become the owner of any other estate in the coal, oil, gas, * * * or other minerals or mineral substances in and under the same, * * * the assessor shall assess such respective estates to the respective owners thereof at their true and actual value, according to the rule prescribed in section twelve of this chapter: provided, that if, by reason of the discovery of such minerals or the development thereof or otherwise since the last assessment, any such land or estate increases in value to the amount of one hundred dollars or more, the assessor shall increase the assessment of such land or estate to the actual value thereof, according to the rule contained in section twelve, in the name of the owner thereof: And provided further, That if the value of such estate shall decrease to the amount of one hundred dollars or more, by reason of the exhaustion of any such minerals or by the failure to find or develop the same thereunder, said assessor shall make reduction in the valuation thereof as to place it at its actual value according to the rule prescribed in section twelve of this chapter. (Acts 1905, Chap. 35.)

* * * * *

SEC. 968. Public service corporations—Returns of property to board of public works.

84. On or before the first day of April in each year a return in writing to the board of public works shall be delivered to the state tax commissioner * * * by the owner or operator of every pipe line, wholly or in part within this state, used for the transportation of oil or gas * * * whether such oil or gas * * * be owned by such owner or operator or not. * * * Such

return shall be signed and sworn to by such owner or operator if a natural person, or, if such owner or operator shall be a corporation, shall be signed and sworn to by its president, vice-president, secretary or principal accounting officer, and shall show in detail particulars as hereinafter set forth, for the year ending on the thirty-first of December next preceding. (Acts 1909, Chap. 67.)

* * * * *

Sec. 972. Public Service Corporations—Pipe line companies—Returns—Contents.

88. In the case of a pipe line, such return shall show for each owner or operator :

(a) The number of miles of pipe line owned, leased or operated within this state, the size or sizes of the pipe composing such line, and the material of which such pipe is made ;

(b) if such pipe line be partly within and partly without this state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state ;

(c) the length, size and true and actual value of such pipe line in each county of this state, including in such valuation the main line, branches and connecting lines, and stating the different values of the pipe separately ;

(d) its pumping stations, machine and repair shops and machinery therein, tanks, storage tanks and all other buildings, structures and appendages connected or used therewith, together with all real estate, other than its pipe line, owned or used by it in connection with its pipe line, including telegraph and telephone wires, and the true and actual value of all such buildings, structures, machinery and appendages and of each parcel of such real estate, including such telegraph and telephone lines, and the true and actual value thereof in each county in this state in which it is located ; and the number and value of all tank cars, tanks, barges, boats and barrels ;

(e) its personal property of every kind whatsoever, including money, credits and investments, and the amount thereof wholly held or used in this state, showing the amount and value thereof in each county ;

(f) an itemized list of all other real property within this state, with the location thereof ;

(g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of such owner or operator with respect to such line, and of indebtedness not bonded ; and, if such owner or operator be a corporation, its capital stock, the character, number and amount and the market value of the shares thereof, and the amount of capital stock actually paid in ; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use in determining the true and actual value of the property to be assessed to such owner or operator. (Acts 1905, Chap. 35.)

WYOMING.

CONTENTS.

	Page.
Natural gas -----	356
Interference with supply -----	356
Wasteful use prohibited -----	357
Oil and gas wells -----	358
Waste prevented—Plugging -----	358
Miners' liens -----	360
Pipe line companies -----	360
Rights of way -----	360
Taxation -----	362
Gross products -----	362

NATURAL GAS.

INTERFERENCE WITH SUPPLY.

WASTEFUL USE PROHIBITED.

INTERFERENCE WITH SUPPLY.

LAWS 1911, P. 74.

FEBRUARY 18, 1911.

AN ACT making it a misdemeanor to interfere with any gas main, lateral, supply pipe or other conduit for supplying gas to consumers, or to interfere with any gas meter, or to divert or use gas without the consent of the person or corporation furnishing the same, and providing a penalty for said acts.

Be it enacted, etc.:

ANY PERSON WHO—MISDEMEANOR.

Sec. 1. Any person who connects any pipe or other conduit, device or contrivance with any gas main or lateral supply-pipe, supplying or intended to supply gas to any house, store or other building, without the knowledge and consent of any person or corporation owning said gas main or lateral supply pipe, in such manner that any portion of such gas may be transmitted or supplied to any lamp burner, heating apparatus, engine or other instrument or thing by or at which gas is consumed or used, shall be deemed guilty of a misdemeanor and punished as provided in Section 4 hereof.

MUST PASS THROUGH METER.

Sec. 2. Any person who connects or changes any pipe or other conduit, device or contrivance with any gas main or lateral supply pipe, supplying or intended to supply gas to any house, store or other building, without the knowledge and consent of any person or corporation owning said gas main, or lateral supply pipe, in such manner that any portion of such gas may be transmitted or sup-

plied to any lamp burner, heating apparatus, engine or other instrument or thing by or at which gas is consumed or used, around or without passing through the meter provided for measuring or registering the amount or quantity of gas passing through it, shall be deemed guilty of a misdemeanor and punished as provided in Section 4 hereof.

MUST NOT ALTER OR DESTROY.

Sec. 3. Any person who wilfully injures, alters, or by any instrument, device or contrivance in any manner interferes with or destroys the action or operation of any meter for measuring gas, or of the amount or quantity of gas passing through it without the knowledge or consent of the person or corporation owning the same shall be deemed guilty of a misdemeanor and punished as provided in Section 4 hereof.

PENALTY.

Sec. 4. Any person convicted of a violation of any of the provisions of this act shall be punished for each offense by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days or more than ninety days, or by both such fine and imprisonment.

Sec. 5. This act shall take effect and be in force from and after its passage.

WASTEFUL USE PROHIBITED.

LAWS 1919, P. 169.

FEBRUARY 24, 1919.

AN ACT for the protection and conservation of the supply of natural gas of the State of Wyoming, prohibiting the waste and wasteful use of natural gas through the burning or consumption thereof for the manufacturing or producing of carbon or other resultant products therefrom, prohibiting the taking, using, sale or other disposition of natural gas from gas wells for such purposes, and providing penalties for the violation of such Act.

Be it enacted, etc.:

Sec. 1. The use, consumption or burning of natural gas taken or drawn from any natural gas well or wells, or borings from which natural gas is produced for the products where such natural gas is burned, consumed or otherwise wasted without the heat therein contained being fully and actually applied and utilized for other manufacturing purposes or domestic purposes is hereby declared to be a wasteful and extravagant use of natural gas and shall be unlawful when such gas well or source of supply is located within ten miles of any incorporated town or industrial plant.

Sec. 2. No person, firm or corporation, having the possession or control of any natural gas well or wells, except as herein provided, or borings from which natural gas is produced, whether as a contractor, owner, lessee, agent or manager, shall use, sell, or otherwise dispose of natural gas, the product of any such well or wells, or borings for the purpose of manufacturing or producing carbon or other resultant products from the burning or consumption of such natural gas, without the heat therein contained being fully and actually applied and utilized for other manufacturing purposes or domestic purposes.

Sec. 3. Any person, firm or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1000.00) for each offense and each and every day in which any person, firm

or corporation shall violate any of the provisions hereof shall constitute a separate offense hereunder and subject the offender to the penalty hereby provided.

Sec. 4. This Act shall take effect and be in force after September 30, 1919.

OIL AND GAS WELLS.

WASTE PREVENTED—PLUGGING.

MINERS' LIENS.

WASTE PREVENTED—PLUGGING.

LAWS 1913, P. 37.

FEBRUARY 21, 1913.

CHAPTER 46.

AN ACT amending and re-enacting Chapter 228 of the Wyoming Compiled Statutes, 1910, regulating and plugging of oil and gas wells, and providing a penalty for the violation of the same.

Be it enacted, etc.:

Sec. 1. That Chapter 228. of the Wyoming Compiled Statutes 1910, be amended and re-enacted to read as follows: (This is the Act of Feb. 21, 1905, Laws 1905, p. 127).

WASTE.

Chapter 228. It shall be unlawful for any person or corporation having possession or control of natural gas or oil well, whether as a contractor, owner, lessee, agent or manager, to allow or permit the flow of gas or oil from any such well to escape into the open air, without being confined within such well or proper pipes, or other safe receptacle for a longer period than ten (10) days next after gas or oil shall have been struck in such well. And thereafter all such gas or oil shall be safely and securely confined in such well pipes or other safe and proper receptacles.

PLUGGING ABANDONED WELLS.

Sec. 2. Whenever any well shall have been sunk for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom, it shall be the duty of any person or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also of the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same as follows: If such well has not been "shot" there shall be placed in the bottom of the hole thereof a plug of well seasoned pine wood, the diameter of which shall be within one-half inch as great as the hole of such well, to extend at least three feet above the salt water level, where salt water has been struck; where no salt water has been struck such plug shall extend at least three feet from the bottom of the well. In both cases such wooden plugs shall be thoroughly rammed down and tightened by the use of drilling tools. After such ramming and tightening the hole of such well shall be filled on top of such plug with finely broken stone or sand, which shall be placed and well rammed to a point at least four feet above the gas or oil bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five feet long with diameter as aforesaid, which shall be thoroughly rammed and

tightened. In case such well shall have been "shot," the bottom of the hole thereof shall be filled with a proper and sufficient mixture of sand stone and dry cement, so as to form a concrete up to a point at least eight feet above the top of the gas or oil bearing rock or rocks and on top of this filling shall be placed a wooden plug at least six feet long, with a diameter as aforesaid, which shall be properly rammed as aforesaid.

NOTE: Section 3 was amended by the Act of February 10, 1915, Laws 1915, p. 16, and the amended section reads as follows:

SWORN STATEMENT TO BE FILED.

Sec. 3. Whenever any person, persons or corporation have abandoned or ceased operating any well or wells, such person, persons or corporation shall file with the county clerk of the county in which such well or wells are located, and with the State Geologist, copies of a sworn statement setting out the manner in which such well or wells have been plugged, and the time that same were plugged, and the location of said well or wells. Said statement shall be sworn to by at least two persons who shall have assisted in the actual work of so plugging said well or wells. For each such certificate properly filed the party filing the same shall receive fifty cents to be paid by the county commissioners upon the presentation of a proper claim approved by the state geologist.

PENALTY.

Sec. 4. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and be punishable by a fine of not more than five hundred dollars (\$500.00) and not less than one hundred (\$100.00) in the discretion of the court, and all such fines when so collected shall be paid into the treasury of the county.

ADJOINING OWNERS MAY PLUG ABANDONED WELLS.

Sec. 5. Whenever any person or corporation in possession or control of any well in which natural gas or oil has been found shall fail to comply with the provisions of this chapter, any person or corporation lawfully in possession of lands situated adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situated and take possession of such well from which gas or oil is allowed to escape in violation of the provisions of Section 1 hereof, and pack and tube such well and shut in and secure the flow of gas or oil, and maintain in a civil action in any court of competent jurisdiction in this State, against the owner, lessee, agent or manager of said well, and each of them jointly and severally to recover the cost and expense of such tubing and packing, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided for by Section 4 hereof.

Sec. 6. This act shall take effect and be in force from and after its passage.

NOTE: This Act amends and reenacts the Act of February 21, 1905, Laws 1905, p. 127, Chap. 17. The Act contains no express repeal of the former act, but it clearly repeals it by implication.

MINERS' LIENS.

REVISED STATUTES, 1899.

CHAPTER 4.

* * * * *

LIEN ON OIL LANDS.

Sec. 2875. Any owner of any oil well or spring, who shall employ any person to perform any work of any kind around, or about, any oil well or spring, either in building derricks, buildings, or any kind of machinery, or in boring or drilling, shall be deemed within the provisions of this chapter; and all persons performing labor or furnishing materials, shall have like liens upon oil territory upon which they labored or for which they furnished materials or the improvements thereon, as miners or other laborers upon, or in, mines as provided in this chapter and shall proceed in the same manner to enforce a lien. (R. S. 1887, Sec. 1493.)

* * * * *

PIPE-LINE COMPANIES.

RIGHTS OF WAY.

LAWS 1890-91, P. 170.

JANUARY 9, 1891.

REVISED STATUTES, 1899, SECTIONS 3207-3209.

CHAPTER 39.

AN ACT permitting railroad companies to cross and occupy school and other lands of this state with their tracks, and for depot grounds, and to provide the manner in which title may be acquired by such companies for right of way and other necessary purposes across such land, and providing that this act shall also apply to petroleum oil companies and others as to right of way for oil purposes.

Be it enacted, etc.:

NOTE: This Act was carried into the Code of 1899 and the Code sections are given as follows:

RIGHT OF WAY OVER STATE LANDS.

Sec. 3207 (1). Any railroad corporation shall be authorized to pass over, occupy and enjoy any of the lands granted to this state for schools, university, agricultural, normal school, insane asylum, deaf, dumb and blind asylums, poor farm, miner's hospital, charitable, penal, reform and educational purposes, and all other lands of this state: Provided, That no more than one hundred feet in width from the center of the roadway survey of such corporation, on either side, shall be taken for roadway, and not to exceed twenty acres to conform to the subdivisions of the government survey, in any one tract, for each section of twelve miles of such railroad, shall be taken for station, depot grounds, machine shops, turnouts, sidetracks, ware houses and other appurtenances to a railroad; and that any railroad corporation that has surveyed or shall hereafter survey, or locate a line of its road, immediately after platting a survey of its line, and of the selection of depot grounds under this chapter, and filing such plat, duly certified by the chief engineer, or president

of such corporation, of the fact of such survey, and selection for depot grounds, duly acknowledged, with the secretary of state, and with the county clerk of the county in which such land is situated, to operate as a vested right in such corporation, from two years from the date of filing the same, shall be authorized to enter upon said lands so surveyed and selected, and construct thereon all necessary railroad track, turn tables, round houses or other appurtenances, deemed necessary for railroad purposes of such corporation, and so soon as such railroad shall be constructed over such land so surveyed and selected, and in case of depot grounds and appurtenances, the erection of a station thereon, on proof of such fact to the satisfaction of the land commissioners, and upon paying the sum of ten dollars per acre for said lands for depot, station and work shop grounds and all grounds herein contemplated, except the one hundred feet of track way, the governor shall, by letters patent, under the great seal of the state, attested by the secretary of state, grant and convey in fee simple, to the corporation constructing such railroad, its successors and assigns, the lands selected for depot and work shop grounds, and granting to said corporation, its successors and assigns, forever, the right to use, cross and recross and occupy for the purposes aforesaid, the lands and right of way, included in the one hundred feet of trackway, included in the plat and certificate so filed with the secretary of state as aforesaid, and no subsequent grant from the state to any other person or corporation, of any tract of land, including such right of way, and selection for depot grounds so platted, and the plat thereof filed as aforesaid, though not excepted in such grant, shall divest said railroad corporation of their rights in the same under this chapter: Provided, further, That the damages accruing to any occupant or owner, or other person who may reside, or have improvements on said land, previous to the filing of said surveyed plat, shall be determined and paid by such railroad company, as in cases of damages for taking lands of private persons.

LANDS HERETOFORE TAKEN MAY BE ACQUIRED.

Sec. 3208 (2). Any railroad company which may have prior to January 9, 1891, taken any of the lands of this state for right of way, and depot grounds shall, upon filing a plat and survey thereof, with the secretary of state, and payment for depot grounds as provided in the preceding section, be entitled to a conveyance by letters patent, by the governor, conveying in fee the lands for depot grounds, and granting forever to such railroad company, its successors and assigns, the right to take, use, occupy and enjoy for its railroad purposes, the lands so taken for right of way, for tracks and roadways: Provided, That in addition to the filing of such survey and plat, proof, to the satisfaction of the land commissioners, shall be made of the construction of such railroad across the land, and the erection of a station on the lands claimed for depot grounds.

APPLICABLE TO OIL COMPANIES.

Sec. 3209 (3). The last two preceding sections shall also apply to all petroleum oil corporations, companies and individuals, for the right of way ten feet wide, through the school and other lands, over which the state has control, for the purpose of carrying oil through pipes, also land for pump stations, tanks and other buildings, necessary to conduct the oil product of the wells of Wyoming.

TAXATION.

GROSS PRODUCTS.

LAWS 1903, P. 101.

FEBRUARY 21, 1903.

AN ACT providing for the taxation of the gross product of mines and mining claims in addition to the tax on the surface improvements, and in lieu of taxes on the lands thereof.

Be it enacted, etc.:

* * * * *

NOTE: Sections 1, 2, and 3 of the act were amended by the Act of February 8, 1917, and are given as follows:

LAWS 1917, P. 9.

FEBRUARY 8, 1917.

AN ACT to amend and re-enact sections 2449, 2450, and 2451 of Chapter 164, Wyoming Compiled Statutes, 1910, and to provide for the taxation of the output of Natural Gas. (Secs. 1, 2, and 3 of the Act of February 21, 1903.)

Be it enacted, etc.:

Sec. 1. That Sec. 2449 of the Wyoming Compiled Statutes, 1910, (Sec. 1, Act of February 21, 1903), be amended and reenacted to read as follows:

GROSS PRODUCT—RETURN FOR ASSESSMENT.

"Sec. 2449. The gross product of all mines and mining claims from which gold, silver and other precious metals, soda, saline, coal, petroleum, or other crude or mineral oil, or natural gas, or other valuable deposit is, or may hereafter be produced while the same are being worked or operated, but not while the same are simply in the course of development, shall be returned by the owner, owners, lessee, or operator thereof for assessment for taxation, assessed for taxation, and taxed in the manner provided for in this chapter, and such tax shall be in addition to any tax which may be assessed upon the surface improvements of such mines or mining claims, and in lieu of taxes upon the land of such claims while the same are being worked or operated."

Sec. 2. That Sec. 2450 of the Wyoming Compiled Statutes, 1910, (Sec. 2, Act of February 21, 1903), be amended and re-enacted to read as follows:

RETURN OF BY OWNER—SWORN STATEMENT.

"Sec. 2450. The owner, owners, lessee or operator of mines or mining claims from which gold, silver, and other precious metals, soda, saline, coal, petroleum, or other crude or mineral oil, or natural gas, or other valuable deposits, is produced, but not while the same are simply in the course of development, shall, not later than the second Monday in January in each and every year, file with the state board of equalization a sworn assessment schedule statement setting forth the gross product in tons, gallons, or thousands of cubic feet, as the case may be, of such mine or mineral claim during the calendar year expiring immediately preceding the first day of January of the then current year. If the return aforesaid be not received by the second Monday in January, as herein provided for (,) or if received and the state board of equalization shall believe that the return is not full, complete and correct, it shall be the duty of said board to proceed to obtain the facts and information aforesaid in any manner that may appear most likely to secure the same."

Sec. 3. That Sec. 2451 of the Wyoming Compiled Statutes 1910, (Sec. 3, Act of February 21, 1903), be amended and reenacted to read as follows:

VALUATION—FIXED BY STATE BOARD.

"Sec. 2451. The state board of equalization shall at least ten days before the date fixed for making assessments, classify and prescribe and fix the valuation, each year, for the assessment of the gross product, in tons, gallons, or thousands of cubic feet, as the case may be, of all mines, or mining claims, from which gold, silver, or other precious minerals, soda, saline, coal, petroleum, or other crude or mineral oil, or natural gas, or other valuable deposit is produced."

(Remaining sections of original act of February 21, 1903.)

AUDITOR—DUTY OF.

Sec. 4. On or before ten days prior to the day fixed for beginning assessments, or so soon thereafter as the State Board of Equalization shall have made and determined the valuation and assessment of said property, the State Auditor shall certify to the Assessor of the county where such property is situated, the valuation and assessment on such property said Board so fixed, and the assessors shall enter such valuation and assessment upon the list of taxable property in the assessment rolls of the county.

PENALTY FOR FALSE REPRESENTATION.

Sec. 5. Any person who shall knowingly make any false or fraudulent representation in said statement shall be deemed guilty of perjury.

PENALTY FOR NEGLECT OF DUTY.

Sec. 6. Any owner, owners, lessee or operator of any mine or mining claim who shall fail, neglect or refuse to make the assessment schedule statement provided for in this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding five thousand dollars or imprisoned in the county jail not exceeding six months.

TAKES EFFECT—WHEN.

Sec. 7. This act shall take effect and be in force from and after its passage: provided, however, that no return of said property shall be required under this act for the year expiring immediately preceding the first day of January, A. D. 1903.

CANADA.

I. STATUTES.

II. ORDERS IN COUNCIL.

CONTENTS.

I. STATUTES.

	Page.
Oil	364
Bounty for production.....	364

II. ORDERS IN COUNCIL.

Oil	365
Importations—Duty free.....	365
Prospecting—Discovery—Grant of land—Consideration.....	365
Navy reservation.....	367
Oil meters	367
Oil and gas.....	368
Locations—Production—Lease—Regulations	368
Petroleum and natural gas regulations.....	377
Extended to Dominion forest reserves.....	377
Orders in council amended.....	379

I. STATUTES.

OIL.

BOUNTY FOR PRODUCTION.

STATUTES 1910 (9-10 EDWARD VII), P. 393.

MAY 4, 1910.

CHAPTER 46.

AN ACT to provide for the payment of Bounties on crude petroleum.

HIS MAJESTY, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE AND HOUSE OF COMMONS OF CANADA, ENACTS AS FOLLOWS:

1. This act may be cited as The Petroleum Bounty Act, 1909.
2. The Governor in Council may authorize the payment out of the Consolidated Revenue Fund of a bounty of one and one-half cents per imperial gallon on all crude petroleum having a specific gravity not less than .8235 at 60 degrees by Fahrenheit's thermometer produced from wells in Canada or from shales or other substances mined in Canada on and after the day on which this Act comes into force, the said bounty to be paid to or divided amongst the producers of the petroleum, the owner or occupier of the soil through which it is mined or won, or such other person interested, or injuriously affected by the mining operations or works, as the Governor in Council by regulation approves.

3. The Minister of Trade and Commerce shall be charged with the administration of this Act, and may, subject to the approval of the Governor in Council, make such regulations as he deems necessary respecting the payment of the said bounties.

4. Chapter 33 of the statutes of 1907, and the Petroleum Bounty Act, 1908, chapter 52 of the statutes of 1908, are repealed.

II. ORDERS IN COUNCIL.

OIL.

IMPORTATIONS—DUTY FREE.

PROSPECTING—DISCOVERY—GRANT OF LAND—CONSIDERATION.

NAVY RESERVATION.

OIL METERS.

IMPORTATIONS—DUTY FREE.

STATUTES 1904 (4 EDWARD VII), P. XXXI.

ORDER OF MARCH 9, 1904.

By order in Council of the 9th of March, 1904, oil (petroleum) was transferred to the list of goods which may be imported into Canada free of duty when imported by miners or mining companies or concerns, to be used in the concentration of ores of metal in their own concentrating establishments, under such regulations as the Minister of Customs may prescribe.

(Vide Canada Gazette, Vol. xxxvii, p. 1798.)

PROSPECTING—DISCOVERY—GRANT OF LAND—CONSIDERATION.

STATUTES 1904 (4 EDWARD VII), P. XXXVIII.

ORDER OF MARCH 23, 1904.

By Order in Council of the 23rd of March, 1904, sections 1 and 2 of the regulations governing the disposal of Dominion lands containing petroleum established by the Order in Council of the 31st of May, 1901, and amended by Order in Council of the 22nd of December, 1902, were rescinded and the following substituted therefor:—

1. All unappropriated Dominion lands in Manitoba, the Northwest Territories and within the Yukon Territory shall be open to prospecting for petroleum by an individual or company desiring to do so. In case there should arise any dispute as to whether lands are or are not unappropriated, the question shall be decided by the Minister of the Interior whose decision shall be final: Provided, however, that the Minister may reserve for an individual or company who has machinery on the land to be prospected, an area of 1,920 acres for such period as he may decide.

This tract of land may be selected by the said individual or company so soon as the machinery has been placed on the ground, but the length of such tract shall not exceed three times its breadth.

2. Should oil in paying quantities be discovered by a prospector on any vacant lands of the Crown, and should such discovery be established to the satisfaction of the Minister of the Interior, an area not exceeding 640 acres of land, including the oil well, will be sold to the person or company making

such discovery at the rate of \$1 per acre, and the remainder of the area reserved, namely, 1,280 acres, will be sold at the rate of \$3 per acre. The patent for the land will convey the surface and the petroleum, but will exclude all other minerals.

(Vide Canada Gazette, Vol. xxxvii, p. 1970.)

STATUTES 1905 (4-5 EDWARD VII), P. XLIII.

ORDER OF OCTOBER 1, 1904.

By Order in Council of the 1st of October, 1904, section 1 of the regulations governing the disposal of Dominion lands containing petroleum, established by the Order in Council of the 23rd March, 1904, was rescinded, and the following section substituted therefor:—

1. All unappropriated Dominion lands in Manitoba, the North-west Territories and within the Yukon Territory, shall be open to prospecting for petroleum by an individual or company desiring to do so. In case there should arise any dispute as to whether lands are or are not unappropriated, the question shall be decided by the Minister of the Interior whose decision shall be final; provided, however, that the Minister may reserve for an individual or company who has machinery on the land to be prospected, an area of 1,920 acres for such period as he may decide.

This tract of land may be selected by the said individual or company so soon as machinery has been placed on the ground, but the length of such tract shall not exceed three times the breadth thereof; where the circumstances of the case, however, appear to be exceptional the Minister of the Interior may permit the selection to be made in areas of not less than a quarter-section, or a fractional quarter-section, which may have resulted from the convergence of meridians, in such section affected, and the several parcels of land selected must be contiguous.

(Vide Canada Gazette, Vol. xxxviii, p. 817.)

STATUTES 1906 (6 EDWARD VII), P. XLV.

ORDER OF JULY 22, 1905.

By order in Council of the 22nd of July, 1905, the regulations governing prospecting for petroleum on unappropriated Dominion lands in Manitoba, North-west Territories and within the Yukon Territory, established by Order in Council dated 31st May, 1901, as amended by subsequent Orders in Council, were adopted for lands the surface rights of which have been disposed of.

It was also ordered that the prospector before entering upon such lands shall obtain a lease from the owner of the surface rights upon such form as may be approved by the Minister of the Interior.

(Vide Canada Gazette, Vol. xxxix, p. 417.)

STATUTES 1907 (6-7 EDWARD VII), P. CIV.

ORDER OF DECEMBER 26, 1906.

By Order in Council of the 26th of December, 1906, the regulations governing the reservation and sale of lands in Manitoba, what was formerly the Northwest Territories, and in the Yukon Territory, established by Order in Council of the

31st May, 1901, as amended by subsequent orders in council, were amended by adding the following provision thereof:—

“The Minister may, upon application, make a preliminary reservation of an area of 1,920 acres for a period of four months for the purpose of allowing an applicant sufficient time to install on the land the required machinery. Each application for a preliminary reservation shall be accompanied by a fee of \$100, which amount may be applied on account of the purchase price of the land in case oil in paying quantities is discovered, or may be refunded in case no discovery is made: Provided, however, that in the event of the applicant failing within the above period of four months to place on the land reserved for him, prospecting machinery to the satisfaction of the Minister, the reservation will be cancelled, and no refund will be made of the fee paid. The tract to be included in a petroleum reservation shall be selected in accordance with these regulations, and the rights and privileges granted under such reservation shall not be assignable.”

It was further ordered that the regulations established by orders in council for the reservation and sale of petroleum lands shall apply also to the reservation and sale of lands for natural gas purposes.

(Vide Canada Gazette, Vol. xl, p. 1844.)

NAVY RESERVATION.

STATUTES 1911 (1-2 GEO. V), P. XC.

ORDER OF OCTOBER 12, 1910.

By Order in Council of the 12th of October, 1910, it was ordered that the following provision be inserted in all leases issued by the Crown of lands for petroleum purposes:—

“That if in the opinion of the Minister the said petroleum or its products or any portion thereof should at any time during this demise be required for the use of His Majesty's Canadian Navy, the Minister shall have a right of pre-emption of all crude petroleum oil or its products gotten or won under this demise, for such use as aforesaid, the price to be agreed on between the Minister and the lessee or in the case of difference to be fixed by the Exchequer Court of Canada.”

(Vide Canada Gazette, Vol. xlv, p. 1204.)

OIL METERS.

STATUTES 1914 (4-5 GEO. V), P. XLVIII.

ORDER OF MAY 22, 1913.

By Order in Council of the 22nd of May, 1913, under the provisions of sections 52 and 53 of The Weights and Measures Act, chapter 52 of the Revised Statutes, 1906, pipe line automatic self-measuring oil meters were admitted to verification in Canada under certain regulations.

(Vide Canada Gazette, Vol. xlv, p. 4414.)

ORDERS RESCINDED.

NOTE: Orders in Council of March 11, 1910, March 11, 1911, August 12, 1911, October 16, 1913, were all expressly rescinded by the following Order in Council of January 19, 1914.

OIL AND GAS.

LOCATIONS—PRODUCTION—LEASE—REGULATIONS.

PETROLEUM AND NATURAL GAS REGULATIONS EXTENDED TO DOMINION
FOREST RESERVES.

ORDERS IN COUNCIL AMENDED.

STATUTES 1914 (4-5 GEO. V), P. LXIX.

ORDER OF JANUARY 19, 1914.

By Order in Council of the 19th of January, 1914, the regulations governing the disposal of petroleum and natural gas rights, the property of the Crown, in Manitoba, Saskatchewan, Alberta and the Northwest Territories, the Yukon Territory, the Railway Belt in the province of British Columbia, and within the tract containing three and one-half ($3\frac{1}{2}$) million acres of land acquired by the Dominion Government from the province of British Columbia, and referred to in subsection (b) of section 3 of The Dominion Lands Act, approved by Order in Council dated the 11th day of March, 1910, and amended and re-established by Orders in Council dated, the 10th day of March, 1911, the 12th day of August, 1911, and the 16th day of October, 1913, were rescinded and the annexed regulations, substituted therefor:

REGULATIONS for the disposal of petroleum and natural gas rights, the property of the Crown, in Manitoba, Saskatchewan, Alberta, the Northwest Territories, the Yukon Territory, the Railway Belt in the province of British Columbia, and within the tract containing three and one-half ($3\frac{1}{2}$) million acres of land acquired by the Dominion Government from the province of British Columbia, and referred to in subsection (b) of section 3 of The Dominion Lands Act.

INTERPRETATION.

“Minister” shall mean the Minister of the Interior of Canada.

“Adjoining” lands shall be those which are not separated by a section, or by any of the regular subdivisions into which a section may be divided.

“Location” shall mean the tract described in a petroleum and natural gas lease.

“Group” shall mean two or more of the locations described in petroleum and natural gas leases, consolidated for purposes of operation.

“Lessee” means any individual, company, corporation or municipality, the holder of a petroleum and natural gas lease in good standing.

“River” shall mean a stream of water, the bed of which is of an average width of 150 feet throughout the portion thereof on which the tract applied for fronts.

1. The petroleum and natural gas rights which are the property of the Crown, in Manitoba, Saskatchewan, Alberta, and the Northwest Territories, the Yukon Territory, the Railway Belt in the province of British Columbia, and within the tract containing three and one-half ($3\frac{1}{2}$) million acres of land acquired by the Dominion Government from the province of British Columbia, and referred to in subsection (b) of section 3 of The Dominion Lands Act, may be leased to applicants at a rental of twenty-five (25) cents an acre for the first year, and for each subsequently year a rental at the rate of fifty (50) cents an acre, payable yearly in advance. The term of the lease shall be twenty-one years, renewable for a further term of twenty-one years, provided the lessee can furnish evidence satisfactory to the Minister to show that during the term of

the lease he has complied fully with the conditions of such lease and with the provisions of the regulations in force from time to time during the currency of the lease.

2. The maximum area of a petroleum and natural gas location shall be 1,920 acres, and no person shall be permitted to acquire a greater area except by assignment;

Provided, that a person who has been granted a lease for a location, and who subsequently abandons or assigns the same, may, after the expiration of twelve months from the date of the said lease, apply for an area not greater than that abandoned or assigned:

Provided further, however, that such right shall not be granted unless all payments on account of rent or other liability to the Crown, due by such person, have been fully made, up to the date of the registration by the department of the assignment of his right to such lease, or up to the date upon which the notice of his abandonment of the same was received by the department.

3. If the tract applied for is situated in surveyed territory it shall consist of sections, or legal subdivisions of sections, but the several parcels comprising the tract shall be adjoining, the length of the tract not to exceed three times its breadth. In unsurveyed territory, if at least one of the lines bounding the tract applied for has been surveyed, and the returns of such survey have been duly received in the office of the surveyor general, an application for a lease of the petroleum and natural gas rights under such tract may be considered under the provisions of this section of the regulations.

4. Application for a lease of the petroleum and natural gas rights on surveyed lands shall be filed by the applicant in person with the agent of Dominion lands for the district in which the rights applied for are situated, or with a sub-agent for such district, for transmission to the agent, but priority of application shall be based upon the date of the receipt of such application in the office of the agent of Dominion lands for the district.

5. If the rights applied for are situated in unsurveyed territory, application for a lease shall be made by the applicant in person to the agent of Dominion lands for the district in which the rights applied for are situated, or to a sub-agent for such district, for transmission to the agent.

6. Application for a location situated in unsurveyed territory shall contain a description by metes and bounds of the location applied for, and shall be accompanied by a plan showing the position of such location in its relation to some prominent topographical feature or other known point. The plan shall contain sufficient data to admit of the position of the location applied for being definitely shown in the records of the department. The location must be rectangular in form, except where a boundary of a previously located tract is adopted as common to both locations, the length not to exceed three times the breadth.

The application shall be accompanied by evidence, supported by affidavit of a locator, to show that the following requirements have been fully complied with:

(a) That the location applied for has been defined on the ground by the locator in person by planting two wooden posts, at least four inches square, and standing not less than four feet above the ground, such posts being numbered "1" and "2" respectively. The distance between post No. "1" and post No. "2" shall not exceed 15,840 feet, and upon each post shall be inscribed the name of the locator and the date of the location. Upon post No. "1" there shall be written in addition to the foregoing, the words "initial post," the approximate compass bearing of post No. "2" and a statement of the number of

feet lying to the right and to the left of the line between post No. "1" and post No. "2." Thus—initial post, direction of post No. "2" is — feet lie to the right and — feet to the left of the line between post No. "1" and post No. "2."

When the tract which an applicant desires to lease has been located, he shall immediately mark the line between post No. "1" and post No. "2" so that it can be distinctly seen, in a timbered locality, by blazing trees and cutting underbrush, and in a locality where there is neither timber nor underbrush he shall set posts of the above dimensions or erect mounds of earth or rock not less than two feet high and two feet in diameter at the base in such a manner that the line may be distinctly seen.

(b) All the particulars required to be inscribed on posts No. "1" and No. "2" shall be set out in the application and shall be accompanied by a plan showing the position of the tract in its relation to some prominent topographical feature or other known point, such plan to contain sufficient data to admit of the location being shown definitely on the records of the department.

(c) The locator shall post a written or printed notice on a conspicuous part of the location applied for, setting out his intention to apply within thirty days from the date of such notice for a lease of the petroleum and natural gas rights under the said location.

(d) The application shall be accompanied by evidence, supported by the affidavit of the locator, in due form, to show that the above requirements of the regulations have been fully complied with.

NOTE: Section 7 was rescinded by Orders in Council, 1915, p. clxix; see page 376.

8. Application for a lease of the petroleum and natural gas rights under lands situated in unsurveyed territory shall be made by the locator in person to the agent of Dominion lands for the district in which the tract applied for is situated, or to a sub-agent for such district, within thirty days from the date upon which the tract applied for was staked as above provided, if it is situated within one hundred miles of the office of the agent or sub-agent, otherwise it will not be considered. One extra day, however, shall be allowed for every additional ten miles or fraction thereof that the location is distant more than one hundred miles from the office of the agent or sub-agent.

9. Where two or more persons lay claim to the same location, or to portions of the same locations, situated in unsurveyed territory, the right to the lease shall be in him who can prove to the satisfaction of the Minister that he was the first to take possession of the tract in dispute by staking in the manner prescribed in these regulations, and that he made application for a lease within the specified time.

10. As soon as the survey of a township has been confirmed, all petroleum and natural gas leases embracing any portion of such township so surveyed and confirmed, shall be made to conform to the Dominion lands system of survey if the Minister so decides, by the substitution of a new lease describing by sections, legal subdivisions of sections, or regular portions of legal subdivisions—as nearly as may be—the tract embraced in the leasehold in so far as the township so surveyed is concerned. If any part of the leasehold is in territory which remains unsurveyed, it shall continue to be described as in the lease originally issued, until such portion is included in a confirmed survey.

11. As soon as the survey of a township has been confirmed, all petroleum and natural gas leaseholds, embracing any portion of the township so surveyed and confirmed, shall be subject to withdrawal forthwith from the lease, without compensation to the lessees, of any portions which, in accordance with such confirmed survey, are to be the property of the Hudson's Bay Company.

Provided, however, that upon such withdrawal being made from any location, in good standing, the rental paid on the land so withdrawn, in whole or in part, may, in the discretion of the Minister, be refunded to the lessee.

12. The rental for the first year of the location applied for at the rate of twenty-five (25) cents an acre per annum, shall accompany the application filed in the office of the agent of Dominion lands for the district in which the rights applied for are situated, and no application for a lease of petroleum and natural gas rights shall be accepted or recorded unless it is accompanied by the full amount of the rental for the first year at the above rate. The lease, when issued, shall bear date from the day upon which the application was filed in the office of the agent of Dominion lands. If, during the term of the lease, the lessee shall fail to pay rental in advance for each subsequent year at the rate of fifty (50) cents an acre per annum within thirty days after the date upon which the same became due, the lease shall be subject to cancellation in the discretion of the Minister and to the immediate forfeiture of the rights which the lessee had in the said lease.

NOTE: Section 12 was by Order of the Governor General in Council January 29, 1920, amended; the amendment to take effect on and after March 1, 1920. This amendment is here added without changing the original section and is as follows:

Sec. 12. * * * be and the same is hereby amended by providing that the rental for the first year of a petroleum and natural gas location, acquired under the provisions of the regulations, shall be at the rate of fifty cents an acre and for each subsequent year at the rate of one dollar an acre per annum, payable in advance, such increase in rental to apply to all applications submitted in the manner prescribed in the regulations on and after the 1st day of March, 1920.

13. Provided, that if the lessee, in consideration of the expenditure to be incurred by him in actual boring operations upon his leasehold, makes application, at or before the beginning of the second and third years, respectively, of the term of the lease, for an extension of time within which to pay the rental when due, or becoming due, the Minister may grant such extension of time in writing, and if the lessee, before the end of the year in respect of which application was made, submits evidence to the land agent of the district in which the leasehold is situated, supported by affidavit, that during such year actual boring operations have been prosecuted upon his leasehold, as required by section 15 of these regulations, the amount expended in such boring operations, exclusive of the cost of machinery and casing, may be deducted from the rental which became due at the beginning of the said year. The balance of rental due, if any, shall be paid at the same time as the evidence in regard to work done is submitted, as above required. Failure to submit such evidence, or to pay the balance or rental due, with interest, will render the lease liable to cancellation, as hereinbefore provided.

14. The lessee shall, within one year from the date of the lease, have upon the lands described therein such machinery and equipment suitable for carrying on prospecting operations as the Minister may consider necessary, and he shall within the same period furnish evidence, supported by affidavit, showing the character, quantity and value of the machinery so installed, the date of its installation and the particular parcel of land upon which it was installed. If the required machinery is not installed within the period specified, and if evidence of its installation is not furnished within the prescribed period, the lease shall be subject to cancellation in the discretion of the Minister: Provided, however, That the Minister shall not require that the value of the machinery so installed on location shall exceed the sum of five thousand dollars (\$5,000.00).

15. The lessee shall commence boring operations on his leasehold within fifteen months of the date of his lease and he shall continue such boring operations with reasonable diligence, to the satisfaction of the Minister, with a view to the discovery of oil or natural gas. If the lessee does not commence boring operations within the time prescribed, or if having commenced the operations he does not prosecute the same, with reasonable diligence, to the satisfaction of the Minister, or if he ceases to carry on the same for a period of more than three months, the lease shall be subject to cancellation in the discretion of the Minister, upon three months' notice to this effect being given to the lessee. Provided, however, that if satisfactory evidence is furnished to show that the sum of at least two thousand dollars (\$2,000.00) has been expended in actual boring operations, by recognized methods, upon the leasehold in any year, such expenditure shall be accepted as compliance with this provision for the year during which such expenditure shall have been incurred.

16. The Minister may permit a lessee, who has acquired by assignment or otherwise, more than one petroleum and natural gas lease to consolidate his operations and expenditure, and to install machinery and equipment on one or more of the locations described in the lease affected: Provided that such consolidation or grouping shall apply only to the second and third years of the term of the leases, and shall comprise only such leases as may at the time be included in such consolidation or grouping. Evidence of the installation of machinery on one or more of the locations included in a group shall be that prescribed by section 14 of these regulations. If the required machinery is not installed on one or more of the locations included in a group within the period specified and evidence of its installation furnished within the prescribed period, and if boring operations are not commenced and continued on such location or locations in the manner set out in section 15 of these regulations, the leases included in the group shall be subject to cancellation in the discretion of the Minister.

17. The Minister may, in consideration of the Expenditure to be incurred by a lessee in boring operations upon one or more of the locations included a group, grant an extension of time within which to pay the rental for the second and third years of the terms of the several leases so included, and upon receipt of the evidence required by section 13 of these regulations, he may deduct from the rental which became due at the beginning of the year in respect of the several locations grouped, the amount expended in actual boring operations on one or more of the locations, exclusive of the cost of machinery and casing. The balance of the rental due, if any, shall be paid at the same time as the evidence in regard to work done is submitted as above required. Failure to submit such evidence or to pay the balance of the rental due, with interest, will render the several leases included in the group liable to cancellation.

18. Provided, however, that the Minister shall not require that the value of the machinery to be installed on any group of locations shall exceed the sum of ten thousand dollars (\$10,000.00), nor shall he require that the expenditure incurred in boring operations thereon in any one year shall exceed the sum of two thousand dollars (\$2,000.00) for each location included in the group.

19. The maximum area of the locations which may be included in one consolidation or group shall not exceed twenty (20) square miles, nor shall the locations so included be separated one from the other by a greater distance than two miles.

20. The Minister may, upon application, grant a lessee during the second and third years of the term of the lease an extension of time within which to pay the rental and to install the prescribed machinery and equipment, and within which to commence actual boring operations upon the location, or upon a group

of locations consolidated under the provisions of these regulations: Provided that evidence to the satisfaction of the Minister is furnished to show that an expenditure equal to that prescribed by these regulations in respect of boring operations is to be incurred in some other acceptable and necessary form of preliminary development, having for its object the discovery of petroleum or natural gas by which the interests of the district in which the locations are situated might be materially benefited. Upon receipt of evidence on or before the termination of the year, supported by affidavit and duly corroborated, that such expenditure has been incurred and that the work done was of a character beneficial to the district, the Minister may deduct the amount of such expenditure from the amount due on account of the rental of the location or locations, affected in the manner prescribed in section 13 of these regulations. In case evidence is not furnished, or if furnished is not acceptable to the minister the leases shall be subject to immediate cancellation in the discretion of the Minister.

In case an extension of time is granted during the second and third years of the term of a lease within which to install machinery and commence boring operations on any location under the grouping provisions of these regulations then the provisions of sections 14 and 15 of the regulations shall apply to the fourth year of the term of the lease of such location.

21. In case the surface rights of a petroleum and natural gas location are covered by a timber license, grazing or coal mining lease, mining claims or other form of terminable grant the lease shall not authorize entry thereon, without the permission of the Minister being first had and obtained, and such permission shall be given subject to such conditions for the protection of the rights of such lessee or licensee as it may be considered necessary to impose.

22. In case the surface rights of a petroleum and natural gas location have been patented, or have been disposed of by the Crown under any act or regulation which contemplates the earning of patent of such surface rights, and the lessee of the petroleum and natural gas rights can not make an arrangement with the owner of such surface rights, or with his agent, or the occupant thereof, for entry upon the location, or for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical operation of the rights acquired under his lease, he may, provided the mineral rights in the land affected with access thereto and the right to use and occupy such portion of the land as may be necessary for the effectual working of the minerals therein have been reserved to the Crown in the original grant of the surface rights, apply to the Minister for permission to submit the matter in dispute to arbitration. Upon receiving such permission in writing, it shall be lawful for the lessee to give notice to the owner, or his agent, or the occupant, to appoint an arbitrator within a period of sixty days from the date of such notice, to act with another arbitrator named by the lessee, in order to determine what portion of the surface rights the lessee may reasonably acquire:

(a) For the efficient and economical operation of the rights and privileges granted him under his lease;

(b) The exact position thereof; and

(c) The amount of compensation to which the owner or occupant shall be entitled.

23. The notice mentioned in this section shall be according to a form to be obtained upon application to the agent of Dominion lands for the district in which the land in question is situated, and shall, when practicable, be personally served on the owner of such land, or his agent, if known, or the occupant thereof, and after reasonable efforts have been made to effect personal service without success, then such notice shall be served by leaving it at, or

sending it by registered mail to, the last known place of abode or address of the owner, agent or occupant, and by posting a copy of the same in the office of the agent of Dominion lands for the district in which the land in question is situate. Such notice shall be ten days if the owner, or his agent, resides in the district in which the land is situate; if out of the district and if in the province or territory, twenty days, and if out of the province or territory, thirty days, before the expiration of the time limited in such notice. If the owner, or his agent, or the occupant of the land refuses or declines to appoint an arbitrator, or when, for any reason, no arbitrator is so appointed in the time limited therefor in the notice provided for by this section, the agent of Dominion lands for the district in which the land in question is situate shall forthwith, on being satisfied by affidavit that such notice has come to the knowledge of such owner, agent, or occupant, or that such owner, agent, or occupant, wilfully evades the service of such notice, or can not be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the last place of abode or known address of such owner, agent, or occupant, as above provided, appoint an arbitrator on his behalf.

24. In case the two arbitrators can not agree upon the award to be made, they may, within a period of ten days from the date of the appointment of the second arbitrator, select a third arbitrator, and when such two arbitrators can not agree upon a third arbitrator, the agent of Dominion lands for the district in which the land in question is situate, shall forthwith select such third arbitrator.

25. All the arbitrators appointed under the authority of those regulations shall be sworn before a justice of the peace, to the impartial discharge of the duties assigned to them, and after due consideration of the rights of the owner and the needs of the lessee, they shall decide as to the particular portion of the surface rights which the latter may reasonably acquire for the efficient and economical operation of the rights and privileges granted him under his lease the area thereof, and the amount of compensation therefor to which the owner or occupant shall be entitled.

26. In making such valuation the arbitrators shall determine the value of the land irrespective of any enhancement thereof from the existence of minerals thereunder.

27. The award of any two such arbitrators made in writing shall be final, and shall be filed with the agent of Dominion lands for the district in which the land is situate, within twenty days from the date of the appointment of the last arbitrator. Upon the order of the Minister the award of the arbitrators shall immediately be carried into effect.

28. The arbitrators shall be entitled to be paid a per diem allowance of \$5.00 together with their necessary travelling and living expenses, while engaged in the arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

29. The lessee shall at all times take reasonable measurements to prevent the injurious access of water to the oil-bearing formation. Upon a well proving to be unproductive, or ceasing to yield oil in paying quantity, or being abandoned for any cause, the lessee shall be at liberty to withdraw the casing from the said well, but in order to prevent water gaining access to the oil-bearing formation the lessee shall immediately close the well by filling it with sand, clay, or other material which may have the effect of preventing water from gaining access thereto.

In case natural gas is discovered through boring operations on a location, the lessee shall take all reasonable and proper precautions to prevent the waste

of such natural gas, and his operations shall be so conducted as to enable him, immediately upon discovery to control and prevent the escape of such gas.

Should salt water be encountered through operations upon the location, the lessee shall immediately and effectively, to the satisfaction of the Minister, close the well at such a depth as may prevent such water from gaining access to the oil-bearing formation.

The Minister may, from time to time, make such additional regulations as may appear to be necessary or expedient governing the manner in which boring operations shall be conducted, and the manner in which the wells shall be operated.

Failure on the part of the lessee to comply with the above requirements, or to comply with such other requirements as the Minister may consider it necessary to impose in respect of boring and operating, will render the lease subject to cancellation in the discretion of the Minister.

30. The lessee may be permitted to relinquish at any time the whole or any portion of the location described in his lease, provided he has complied in every respect with the provisions of the regulations, and that all payment on account of rental or other liability to the Crown, due in connection with the lease, have been fully made, and provided the portion of the location which may be retained shall be of the prescribed shape, and shall not be of a less area than forty acres.

31. The lease shall in all cases include only the oil and natural gas rights, which are the property of the crown, but the lessee may, upon application, be granted a yearly lease at a rental of one dollar (\$1.00) an acre per annum, payable yearly in advance, of whatever area of the available surface rights of the tract described in his petroleum and natural gas lease the Minister may consider necessary for the efficient and economical working of the rights granted him.

32. Should oil or natural gas in paying quantity be discovered on the leasehold, and should such discovery be established to the satisfaction of the Minister, the lessee will be permitted to purchase at the rate of ten dollars (\$10.00) an acre whatever area of the available surface rights of the tract described in the lease the Minister may consider necessary for the efficient operation of the rights granted him.

33. If it is not established to the satisfaction of the Minister that oil or natural gas in paying quantity has been discovered on the leasehold, the lease shall be subject to termination upon two years' notice in writing being given to the lessee by the Minister.

34. The boundaries beneath the surface of a location shall be vertical planes or lines in which their surface boundaries lie.

35. A fee of five dollars (\$5.00) shall accompany each application for a lease, which will be refunded if the rights applied for are not available, but not otherwise.

36. The lease shall be in such form as may be determined by the Minister of the Interior, in accordance with the provisions of these regulations.

37. The lessee shall not assign, transfer or sublet the rights described in his lease or any part thereof, without the consent in writing of the Minister being first had and obtained.

38. No royalty shall be charged upon the sales of the petroleum acquired from the Crown under the provisions of the regulations up to the 1st day of January, 1930, but provision shall be made in the leases issued for such rights that after the above date the petroleum products of the location shall be subject to whatever regulations in respect of the payment of royalty may then or thereafter be made.

39. A royalty at such rate as may from time to time be specified by Order in Council may be levied and collected on the natural gas products of the leasehold.

NOTE: Section 40 was by order of the Governor-General in Council January 29, 1920, rescinded and a substitute ordered enacted to take effect on and after March 1, 1920, and which substitute is as follows:

40. Any Company acquiring by assignment, or otherwise, a lease under the provisions of these regulations shall be a Company registered or licensed in Canada and having its principal place of business within His Majesty's Dominion.

41. The Minister may at any time assume absolute possession and control of any location acquired under the provisions of these regulations, if in the opinion of the Government of Canada such action is considered necessary or advisable, together with all buildings, works, machinery and plant, upon the location, or used in connection with the operation thereof, and he may cause the same to be operated and may retain the whole or any part of the output, in which event compensation shall be paid to the lessee for any loss or damage sustained by him by reason of the exercise of the powers conferred by this provision of the regulations, the amount of the compensation, in case of dispute, to be fixed by a judge of the Exchequer Court of Canada, provided that the compensation in any such case shall not exceed the profit which the lessee would have earned in the working of the location and the disposal of the products thereof, had possession and control of the location of and the buildings, works, machinery, and plant not been assumed.

42. If the location described in any lease issued under the provisions of these regulations, shall yield oil in paying quantity, the lessee shall pump and work the wells faithfully and uninterruptedly with due vigour and skill, with good and sufficient machinery and appliances in accordance with the provisions of the regulations and to the satisfaction of the Minister, so long as the said wells continue to yield oil in remunerative quantity.

43. At the end of each year of the term of the lease the lessee shall furnish a statement, supported by affidavit, showing the number of days during the year that operations were carried on upon the location; the number of men so employed; the character of the work done; the depth attained; the total expenditure incurred; a detailed statement setting out fully the purpose for which such expenditure was incurred; the quantity of crude oil or natural gas obtained; and the amount realized from the sale thereof. Failure to furnish such yearly return will render the lessee subject to a fine of ten dollars (\$10.00) a day for each day's delay in furnishing the sworn statement, and after three months delay the lease shall be subject to cancellation.

44. These regulations shall apply to all applications submitted on and after the first day of August, 1913, in accordance with the provisions of the regulations which were for the time in force.

(Vide Canada Gazette, Vol. xlvii, p. 2531.)

STATUTES 1916 (6-7 GEO. V), P. CLXIX.

ORDER OF MAY 24, 1915.

By order in Council of the 24th of May, 1915, section 7 of the petroleum and natural gas regulations, approved by Order in Council of the 19th January, 1914, was rescinded.

(Vide Canada Gazette, Vol. xlvii, p. 3794.)

STATUTES 1919, P. CXXXV.**ORDER OF MAY 29, 1918.**

By Order of Council of the 29th of May, 1918, it was ordered that the regulations for the disposal of petroleum and natural gas rights, the property of the Crown, in the Western provinces and territories approved by Order in Council dated the 19th day of January, 1914, be amended by adding the following provision thereto:—

20. (2) If the expense incurred in boring operations on a location or a number of locations, grouped under the provisions of these regulations, has been accepted in satisfaction of the rental of such location or group for the second and third years of the term of the lease or of the leases affected, as provided for in sections 13, 17 or 20 of these regulations the Minister may, in consideration of the further expenditure to be incurred in actual boring operations for the discovery of petroleum or natural gas, grant the lessee an extension of time within which to pay the rental for the fourth and for the fifth years respectively of such term, and if the lessee, before the end of the year for which the extension was granted, submits satisfactory evidence supported by affidavit, to show that during such year actual boring operations have been prosecuted with reasonable diligence upon the location or upon the group of locations, the amount expended in such boring operations, exclusive of the cost of machinery and casing, may, in the discretion of the Minister, be deducted from the rental which became due at the beginning of the said year, provided that petroleum or natural gas in paying quantities has not, in the opinion of the Minister been discovered on the location or on the group of locations affected by such extension.

STATUTES 1920. P. —.**ORDER OF JANUARY 29, 1920.**

NOTE: The order of this date amended Sections 12 and 40 of the Order of January 19, 1914, and the amended sections are inserted as parts of that order. See pages 371, 376.

**PETROLEUM AND NATURAL GAS REGULATIONS EXTENDED TO
DOMINION FOREST RESERVES.****ORDER OF OCTOBER 29, 1920 (P. C. 2614).**

The regulations for the disposal of petroleum and natural gas rights, the property of the Crown, in Manitoba, Saskatchewan, Alberta, the North West Territories, the Yukon Territory, and in portions of the Province of British Columbia, approved by Order in Council dated the 19th January, 1914, as amended by subsequent Orders in Council, are hereby extended and made to apply to the lands comprising Dominion forest reserves, as constituted by the Dominion Forest Reserves and Parks Act, assented to on the 19th day of May, 1911, and the amendments thereto, with the exception of such portions of the said reserves as have been proclaimed Dominion parks, and subject to the following special conditions, reservations and restrictions:—

1. The petroleum and natural gas rights, the property of the Crown, in the forest reserves above mentioned, may be acquired under and in accordance with the provisions of the regulations above referred to, excepting that the maximum area located or staked as hereinafter provided may be double the area provided in the above regulations, that is, three thousand eight hundred and forty acres. The claim so located or staked shall be rectangular in shape, except where the boundary of a previously located tract or the boundary of a forest reserve is adopted as a common boundary and the length thereof shall not exceed six miles, nor shall it exceed six times the breadth;

2. The area so located or staked shall be divided into two parts, each of rectangular shape, except as already provided, of equal area as nearly as may be, one of which shall be reserved to the Crown, and the locator shall furnish the information and evidence of locating and staking required by Section 6 of the regulations aforesaid in respect of the claim as originally staked, and he shall state which half he desires to lease and which half is to be reserved for the Crown. The location to be applied for and the location to be reserved shall be marked on the ground in the manner prescribed by Section 6 aforesaid;

3. The applicant shall submit with his application a statement supported by affidavit that from surface indications visible, and from geological information available, the tract selected by him as a Crown reservation is as favourable in all respects for the discovery of petroleum as that which he has applied to lease for that purpose. Any attempt to defraud the Crown by making a false declaration as to the relative value for petroleum purposes of the location applied for and that selected for the Crown may, in the discretion of the Minister, be punished by cancellation of the lease issued or the withdrawal therefrom of a portion of the tract so leased.

4. On the posts marking the locations the locator shall place the inscriptions required by Section 6, and in addition he shall place on the posts marking the location to be reserved to the Crown, the words "Crown Reserve," and shall post on the location selected for the Crown a written or printed notice setting out that it is a Crown reservation;

5. In unsurveyed territory the location shall be staked along its greatest dimension, and the bearing of the location line shall be given in degrees and minutes;

6. The locator shall submit with his application a plan in duplicate, drawn to a scale, showing the position of the location as staked on the ground, the manner in which it has been divided, the position of the half he desires to lease, and the half to be reserved for the Crown. The plan shall contain sufficient data to admit of the position of these locations being shown in their proper position on the records of the Department. Unless definite information is furnished as to the exact position of the location so staked the application for a lease will not be considered;

7. In case the lands affected are surveyed lands within the meaning of the Petroleum and Natural Gas Regulations staking shall not be necessary, but the location shall be described by legal subdivisions, or regular portions thereof, section, township and range, comprising a definite description of the location applied for and of the location to be reserved to the Crown;

8. The minimum area of a location which may be acquired by lease under the provisions of these regulations shall be eighty acres, but in the case of a location of less than eighty acres, where the petroleum and natural gas rights adjoining it are not available, application for a less area, one-half of which shall be reserved to the Crown, may be granted;

9. If the lease issued to an applicant under the provisions of these regulations is relinquished or cancelled the location so leased as well as the reservation created in connection therewith may, if the Minister so determines, again be open to application under the provisions of these regulations, after notice has been posted in the office of the mining recorder for a period of thirty days;

10. If, for any reason, it is considered necessary or advisable to have a survey made of any location or locations applied for or leased under these regulations, owing to an alleged conflict of locations, or in order to determine the exact position of such location or locations, or in order to settle any dispute

which may arise respecting the same or respecting any location or locations reserved for the Crown, the Minister may direct that such a survey be made by a Dominion Lands Surveyor under proper instructions, and may require payment in advance of the costs of such survey to be made by the applicant for or the recorded owner of the location or locations to be surveyed in whole or in part, or the Minister may require such portion of the payment of the costs as may seem to him just. Failure on the part of the applicant or lessee to make such payment in advance, when called upon to do so by the proper officer of the Department, shall render the application or lease subject to immediate cancellation in the discretion of the Minister;

11. Application for a lease of any surface rights within forest reserves required for the efficient operation of the rights which may be acquired under the provisions of these regulations shall be made to the Director of Forestry, or to the officer in charge of the reserve affected. The occupancy of land in a forest reserve shall be under the supervision of the officer in charge thereof;

12. The lessee shall do no unnecessary damage to timber, and shall carefully observe the provisions of the regulations relating to forest reserves, which may be made from time to time;

13. No trees on the reserves shall be cut by the lessee or on his behalf without the permission of the Director of Forestry, and when any trees are cut by him he shall carefully clear the ground of all tops and branches and other débris of such cutting, and shall so dispose of them as to prevent danger from fire, in accordance with the instructions of the officer in charge of the reserve. If in order to so dispose of such débris it is necessary to burn it, the lessee shall give due notice of his intention so to do to the officer in charge of the reserve, and before he proceeds to burn such débris shall obtain the consent of such officer, and shall comply with all the conditions imposed by such officer in regard to such burning;

14. The lessee shall cause to be cleared of combustible material such area around any mill or other works constructed or operated by him as may be determined by the forest officer to be necessary, and if in the opinion of the forest officer it is necessary and practicable, the lessee shall construct and maintain a plowed fire-guard around such area;

15. Every engine operated by the power of steam that is used by the lessee shall be provided with and have in use all the most approved and efficient appliances to prevent the escape of fire from the furnace or ash pan or from the smoke-stack of such engine, including a spark-arrester in connection with the smoke-stack, which appliances shall be kept properly fitted and in a proper state of repair, and it shall be the duty of every engineer in charge of such engine to use all necessary means and appliances to prevent the escape of fire;

16. The machinery and equipment which the lessee shall be required to install on the location, as provided in Section 14 of the regulations, shall include a portable fire-engine and equipment, to be maintained in a state of efficiency for immediate use to the satisfaction of the forest officer, together with a reserve of water sufficient for the use of such engine in case of fire;

17. These regulations shall come into force on the sixth day of December, 1920, at the hour of nine o'clock in the forenoon.

ORDERS IN COUNCIL AMENDED.

REPORT OF THE COMMITTEE OF THE PRIVY COUNCIL APPROVED BY
HIS EXCELLENCY THE GOVERNOR GENERAL ON THE 29TH OCTOBER,
1920 (P. C. 2615).

The Committee of the Privy Council have had before them a Report, dated 27th October, 1920, from the Minister of the Interior, submitting that by an

Order in Council dated the 11th March, 1910, (P. C. 414), regulations governing the disposal of petroleum and natural gas rights, the property of the Crown in Manitoba, Saskatchewan, Alberta, the North West Territories, the Yukon Territory, and a portion of the Province of British Columbia, were established, section 23 of which regulations provides that—

No royalty shall be charged upon the sales of the petroleum acquired from the Crown under the provisions of the regulations up to the first day of January, 1930, but provision shall be made in the leases issued for such rights that after the above date the petroleum products of the location shall be subject to whatever regulations in respect of the payment of royalty may then or thereafter be made.

By an Order in Council dated the 3rd December, 1919, (P. C. 2433), provision was made that section 23 of the regulations above referred to be rescinded and the following substituted therefor:

The sales of the products of any location acquired under the provisions of these regulations shall be subject to the payment to the Crown of such royalty thereon as may from time to time be fixed by the Governor in Council, the royalty to be collected in such manner as may be specified by the Minister.

The Minister states that representations have been made to the Department of the Interior that failure to fix the royalty which may be charged on the products of petroleum locations has the effect of retarding development, as persons contemplating investment in this industry hesitate to incur the large initial expenditure necessary to insure success without knowing what tax may be placed upon the oil which may be discovered.

The Minister, therefore, recommends that for a period of five years after the date upon which the Minister of the Interior may decide that oil in commercial quantity has been discovered on lands acquired under the provisions of the regulations aforesaid the royalty to be collected by the Crown shall not exceed five per cent of the output of the well or the sales of the products of the location as may be decided by the Minister, nor shall it be less than two and one-half per cent of such sales during that period; that for a further period thereafter of five years the royalty to be collected shall not exceed ten per cent of the sales of the products of the location, nor shall it be less than five per cent of the sales during that period; and that thereafter the royalty shall be ten per cent of the sales of the products of locations acquired under the provisions of the said regulations.

The Committee concur in the foregoing recommendation and submit the same for approval.

(Sgd.)

RADOLPHE BOUDREAU,
Clerk of the Privy Council.

NOTE: This Order of October 29, 1920, purports to rescind Section 23 of the Order in Council of March 11, 1910, and substitute therefor a provision as to the payment to the Crown of royalties on petroleum products.

The Orders in Council of March 11, 1910; March 11, 1911; August 12, 1911, and October 16 1913, were all expressly rescinded by the order in Council of January 19, 1914. The Order of January 19, 1914, rescinding all prior orders, substituted section 38 for and in lieu of section 23 of the Order of March 11, 1910.

As it now stands Section 38 of the Order of January 19, 1914, and this substitute Order of October 29, 1920, would both be in force unless the latter would repeal the former by implication. If these orders in Council are governed by the rules of ordinary statutory construction and would be subject to the rule that an act attempting to amend or otherwise change an act that had already been repealed is a nullity, then it would follow that this substitute provision for section 23 of the Order of March 11, 1910, would be a nullity and section 38 of the Order of January 19, 1914, would still be in force.

BRITISH COLUMBIA.

CONTENTS.

	Page.
Oil and gas-----	381
Prospecting license -----	381

PROSPECTING LICENCE.

REVISED STATUTES 1911, VOL. II, CHAPTER 159, P. 1883.

AN ACT to encourage coal and petroleum mining.

HIS MAJESTY, BY AND WITH THE ADVICE AND CONSENT OF THE LEGISLATIVE ASSEMBLY OF THE PROVINCE OF BRITISH COLUMBIA, ENACTS AS FOLLOWS:—

SHORT TITLE.

1. This Act may be cited as the "Coal and Petroleum Act."

2. * * *

NOTE: Section 2 of the original Revised Statutes, 1911, was repealed and substituted by Section 2 of the Act of March 1, 1913 (p. 253, Chap. 44). The Act of March 4, 1914 (p. 259, Chap. 50), added a paragraph (d) to the substituted section. The Act of March 4, 1914 (p. 259, Chap. 50), also amended subsection (3) of Section 2 of the Act of 1913 by striking out the words that are here shown within the brackets and adding the clause immediately following. The Act of March 29, 1919 (p. 217, Chap. 56), added an additional subsection (4) to the substituted section of the Act of 1913.

Section 2 as substituted and as amended is here given in a continuous body as follows:

2 (1). Any person may, upon complying with the provisions of this Act, secure a licence to prospect for coal, petroleum, or natural gas—

(a) Upon any unreserved lands held by the Crown for the benefit of the Province, including any lands covered by water, under which coal-measures or petroleum or natural gas are believed to exist; or

(b) Upon lands the right whereon to enter and raise and get thereout any coal or petroleum or natural gas is reserved to the Crown; or

(c) Upon lands held under lease from the Crown, in which lease the minerals, and power to work, carry away, and dispose of the same, are excepted or reserved. (1913, Chap. 44, Sec. 2.)

(d) Upon timber lands held under special licence from the Crown. (1914, Chap. 50, Sec. 2.)

(2) Any person desirous of securing such licence shall, before entering into possession of the particular lands he may wish to acquire and work for coal, petroleum, or natural gas, place at one angle or corner of the land to be applied for a stake or post at least four inches square, and standing not less than four feet above surface of the ground; and upon such post he shall inscribe his name and the angle represented thereby, thus: "A. B.'s N. E. corner" (meaning northeast corner), or as the case may be, and shall forthwith cause a written or printed notice of his intention to apply for such a licence to be posted on some conspicuous part of the land to be applied for by him. (1913, Chap. 44, Sec. 2.)

(3) Within sixty days after such staking the applicant shall cause to be posted in the office of the Commissioner of Lands for the land district or division of a land district, as the case may be, in which the lands are situated a written or printed notice of his intention to apply for such licence, and within the same period shall [publish the said notice in the Gazette, and in some newspaper circulating in the district, for thirty clear days.] commence the publication of the said notice in the Gazette and in some newspaper circulating in the district, and continue the same for thirty clear days. (1913, Chap. 44, Sec. 2; 1914, Chap. 50, Sec. 3.)

(4) Where application is made for a licence under this section, the Minister of Lands may consider whether it is in the public interest to grant the licence, and may, in his discretion, refuse to grant any licence for which application is made. (1919, Chap. 56, Sec. 2.)

NOTE: Section 3 of the original Revised Statutes, 1911, was amended by the Act of March 29, 1919 (p. 217, Chap. 56), by adding after the word "substantiated" in the next to the last line the words inserted here in brackets. The original section as amended is as follows:

3. After the expiration of such thirty clear days' notice, and within three months from the date of its first publication in the Gazette, the applicant shall make application in writing to the Commissioner of Lands for the district or division of a district, as the case may be, within which the land required is situate for a prospecting licence over such land for any term not exceeding one year. Such application shall be in duplicate, and shall be illustrated by plans or diagrams showing approximately the position thereof, and shall give the best practicable written description of the plat of land over which the privilege is sought; and the application shall be accompanied by a fee of one hundred dollars for each and every licence. The applicant shall also furnish statutory declarations, in duplicate, of the staking of the land and the publication of the notices. The Commissioner shall take into consideration any objections that may have been lodged with him, and shall forward one copy of the application, plan, and declarations, and of the objections (if any), together with the fees and his recommendation thereon, to the Minister of Lands, who may, if no valid objection is substantiated, [and if he thinks it expedient,] grant to such applicant a prospecting licence as aforesaid. (1910, Chap. 33, Sec. 3; R. S. 1911, Chap. 159, Sec. 3; 1919, Chap. 56, Sec. 3.)

NOTE: Section 4 of the Revised Statutes, 1911 was repealed by the Act of March 1, 1913 (p. 253, Chap. 44), and a substituted section enacted that reads as follows:

4. Every piece of land sought to be acquired under a prospecting licence pursuant to the provisions of this Act shall be of a rectangular shape, and shall include within the general limits therein defined land not exceeding six hundred and forty acres for each licensee, and such land shall be in one block. Six hundred and forty acres shall measure eighty chains by eighty chains, and all lines shall be run true north and south, and true east and west:

Provided, however, that, when a licence is applied for respecting lands which have been surveyed or previously located, in whole or in part, under the provisions of the "Land Act," such application may be required to conform to such existing survey or the subsequent survey of such prior location. In such event the length of boundaries and the area to be included in such licence shall be at the discretion of the Minister: Provided always that no excess area in any licence shall exceed forty acres, and that a license may be granted for any area less than six hundred and forty acres when deemed advisable. (1913, Chap. 44, Sec. 3.)

NOTE: Section 5 of the Revised Statutes of 1911, Chapter 159, was amended by the Act of February 27, 1912 (p. 149, Chap. 24). This amendatory Act of 1912 was repealed by the Act of March 1, 1913 (p. 253, Chap.

44), and a new section substituted therefor. To this substituted section the Act of March 4, 1914 (p. 259, Chap. 50), added what was denominated the first proviso of said section. The Act of March 6, 1915 (p. 183, Chap. 43), amended the amendatory Act of March 4, 1914 (p. 259, Chap. 50), by striking out the proviso as therein adopted and set out and substituted in lieu thereof a new proviso.

The substituted section with the added proviso as noted is here set out as a continuous section, and reads as follows:

5. Every applicant for such licence, upon proving to the satisfaction of the Minister of Lands that he has bona fide explored for coal, petroleum, or natural gas during the said term of one year, and that he has expended not less than fifty dollars in such exploration work, shall be entitled to an extension of the same term for a second period of one year upon payment of a further sum of one hundred dollars for each and every licence. An extension of the term for a third period of one year may be granted on like conditions and terms as the first extension: Provided that in lieu of such exploration work such applicant may pay to the Minister of Lands the sum of one hundred and fifty dollars for each licence or renewal licence, and such payment shall relieve the applicant from the necessity of doing any work during the year in and for which such payment is made: Provided also that in lieu of such exploration work such licence-holder who has had the land included in his licence surveyed, and has filed in the office of the Minister of Lands a declaration by a surveyor approved of and acting under instructions from the Minister of Lands, stating that he has surveyed such lands in the manner provided by paragraph (a) of subsection (1) of section 21 hereof, and has delivered to the Minister of Lands a plat of the lands so surveyed and a copy of the original field-notes, and has delivered two copies of the plat and one copy of the field notes to the licensee of such lands, then such licensee shall be entitled to have the cost of such survey (not being less than one hundred and fifty dollars) counted as work done on the lands so licensed as required by this section, and such licensee shall thereupon be relieved from doing further exploration work under such licence. (1913, Cap. 44, Sec. 4.)

Provided also that in case any licence holder has performed, or may hereafter perform exploration work as aforesaid on the land covered by his licence during any one year since the first day of January, 1913, to the value of fifty dollars or more in excess of the amount of work required by this Act to be done in any one year he shall have the right to apply such excess of work to the value of each fifty dollars, in satisfaction of the work requirement for each subsequent year that the existing licence has remained or remains in force. (1915, Chap. 43, Sec. 2.)

Provided also that if it shall appear that the holder of any licence has failed or neglected to pay the sum of one hundred dollars for the renewal of any licence, otherwise renewable, before the expiry date of said licence, or has failed or neglected before such date to satisfy the Minister of Lands as to the expenditure of at least fifty dollars in exploration work upon the ground covered by said licence, he shall, upon payment of the sum of one hundred and fifty dollars and an additional sum of twenty-five dollars within three months after the expiration of the said licence, be entitled to a renewal thereof, provided the land covered thereby is still vacant Crown land:

Provided, however, that in any such renewal of a license issued over reserved lands, such renewal and any subsequent renewal shall contain a proviso that the licensee shall not be entitled to purchase any part of the surface of the land held under such licence, except so much as, in the opinion of the Minister of Lands, the licensee may require for carrying on mining operations in connection with said licence. (1913, Chap. 44, Sec. 4.)

6. Any number of licence holders, not exceeding ten, uniting in partnership for the purpose of prospecting for coal or petroleum on lands which adjoin each other, and which are covered by the licences held by such licence holders, shall be entitled to prospect such land as a firm; and in such case it shall not be necessary for each licence-holder to prospect separately, providing prospecting to the extent of not less than fifty dollars in each year for each licence is carried on upon the land covered by one of the said licences, to the satisfaction of the Minister of Lands. (1910, Chap. 33, sec. 6; R. S., 1911, Chap. 159, sec. 6.)

7. If any person or incorporated company shall hold more than one licence on lands which adjoin each other, it shall not be necessary for such licence-holder to prospect on each piece of land covered by such licences, respectively, separately, provided work is carried on upon any one of them to the satisfaction of the Minister of Lands, and to the extent of not less than fifty dollars in each year for each licence; but this provision shall not apply to more than ten of such licences. 1910, Chap. 33, Sec. 6; R. S., 1911, Chap. 159, sec. 7.)

8. The provision of section 6 of this Act requiring an expenditure of fifty dollars in exploration work shall not apply to or affect the first applications which may have been or may be made for renewals by the holders of licences existing, or applications for renewals pending, on the tenth day of March, 1910. (1910, Chap. 33, Sec. 6; R. S. 1911, Chap. 159, Sec. 8.)

NOTE: Section 9 was amended by the addition of the words "petroleum and natural gas" by the Act of 1913, Chap. 44, Sec. 5, p. 255, and the section as amended reads as follows:

9. The decision of the Minister of Lands as to the right of the holder of any existing coal, [petroleum and natural gas] licence or of any licence issued under the provisions of this Act to a renewal of such licence shall be final, and there shall be no appeal therefrom, notwithstanding anything contained in section 28 of this Act. (1910, Chap. 33, sec. 6; R. S. 1911, Chap. 159, Sec. 9; 1913, Chap. 44, Sec. 5.)

10. The Order in Council approved the fourth day of June, 1904, prescribing a form of licence to be issued under the "Coal-mines Act," being chapter 137 of the "Revised Statutes, 1897," and amending Acts, to applicants for licence to prospect for coal and petroleum on lands situate within Block 4593, Kootenay District, and all licences issued pursuant to said Order in Council, are hereby ratified and confirmed. (1907, Chap. 28, Sec. 2; R. S. 1911, Chap. 159, Sec. 10.)

NOTE: Section 11 of the Revised Statutes of 1911 was amended by the Act of March 1, 1913 (p. 253, Chap. 44), and the section as amended is carried into the body of the original act and reads as follows:

11. Any holder of a licence to prospect for coal, petroleum, or natural gas issued under this act, including licences issued under the provisions of said order in Council, approved the fourth day of June, 1904, or the assignee of such holder, and whether such licence apply to unreserved and unoccupied Crown land or to reserved Crown lands, or to occupied Crown lands, and whether such licence contains or does not contain any special terms or provisions, may, after having had his location surveyed and the survey filed in the Department of Lands, and notice thereof published in the Gazette, apply by petition to the County Court of the county in which the land is situate for a declaration that such holder as assignee is entitled to receive a lease of such land under this Act. (1913, Chap. 44, Sec. 6.)

12. Such petition may be addressed to the Judge of the said Court or to any Judge lawfully sitting and acting therein, and may be heard and determined by any Judge lawfully sitting and acting therein. (1907, Chap. 28, Sec. 4.)

13. Such petition shall set forth the facts upon which the petitioner claims to be entitled to the lease, and shall be verified by affidavit. (1907, Chap. 28, Sec. 4.)

14. Within ten days after the filing of such petition the petitioner shall apply to the Judge in Chambers for an order fixing a day for the hearing of the petition, and giving directions as to service, which shall include publication in a newspaper or in newspapers published in the county in which the claim affected is situate. (1907, Chap. 28, Sec. 4.)

15. Any person or persons desiring to contest or adverse the right of the petitioner may do so by filing an answer to said petition in the manner and within the time fixed and limited in the publication aforesaid. (1907, Chap. 28, sec. 4.)

16. On the day fixed for the hearing of the petition, or the day to which the hearing thereof may have been adjourned, the petition shall be heard and decided by a Judge of the Court in the same manner and subject to the same laws and rules as apply to and govern the trials of actions in the said Court, and such Judge shall have full power to decide and shall decide on all matters arising before him on the hearing of said petition, and shall have full power to make and shall make an order granting or denying in whole or in part the prayer of the petitioner, or granting or denying in whole or in part the relief asked for in any answer filed to the petition, and generally shall have full power to make and shall make such order and decree as shall fully, finally, and effectually define, quiet, and determine the rights of all persons to and in respect of the land affected by the petition; the costs of all proceedings hereunder shall be in the discretion of the Judge. (1907, Chap. 28, Sec. 4.)

17. No prospecting licence issued under this Act shall be transferred by the licensee to any other person unless the written consent of the Minister of Lands shall have been first given. (1910, Chap. 33, Sec. 7.)

NOTE: Section 18 was amended by the Act of March 1, 1913 (Sec. 7, p. 256, Ch. 44), by inserting after the word "petroleum" in the second line thereof, the words "or natural gas," and the original section as thus amended and as it would now stand, reads as follows:

18. In the event of entry being made upon lands already lawfully occupied for other than coal or petroleum [or natural gas] mining purposes and not being a portion of lands granted to and held by or for a railway company under any railway subsidy Act heretofore or to be hereafter passed, the licensee shall give adequate security to the satisfaction of the Minister of Lands for any loss or damages which may be caused by such entry, if requested by the owner or owners, lessees or licensees, of such land, and should he refuse to give such security when so requested his right to prospect thereon shall cease and determine: Provided that after such entry he shall make full compensation to the occupant or owner of such lands for any loss or damages which may be caused by reason of such entry; such compensation, in case of dispute, to be determined by a Court having jurisdiction. (1903-4, Chap. 37, Sec. 5; R. S. 1911, Chap. 159, Sec. 18; 1913, Chap. 44, Sec. 7.)

19. Every licence shall absolutely cease at the expiration thereof, or of the extension thereof as aforesaid, and a new licence over the same land or any part thereof may then be granted to any new applicant upon complying with the requirements of this Act. (R. S. 1897, Chap. 137, Sec. 6; R. S. 1911, Chap. 159, Sec. 19.)

20. Every person holding a prospecting licence over unoccupied lands may use the timber and stone on the land included in such licence for the purpose of his mining operations, and for erection of buildings on the said land, but not further or otherwise. (R. S. 1897, Chap. 137, Sec. 8; R. S. 1911, Chap. 159, Sec. 20.)

NOTE: Section 20a was added by the Act of February 27, 1912 (p. 149, Ch. 24). This section was amended by the Act of March 1, 1913 (p. 256, Ch. 44), by inserting after the words "or petroleum" in the third line

thereof, the words "or natural gas," and the section as amended was repealed by the Act of March 4, 1914 (p. 259, Chap. 50), and is not given.

Subsection 1 of Section 21 of the Revised Statutes of 1911 (p. 1887, Chap. 159), was repealed by the Act of March 1, 1913 (p. 253, Chap. 44), and a new subsection (1) was substituted and provisos added in the form of paragraphs numbered (a), (b), (c), (d), (e), (f), (g), and (h). This amendatory Act of 1913 was itself amended by the Act of March 4, 1914, by inserting between the words "licence" and "as" in the eighth line, as counted in the printed act of 1913), the words: "and has expended a sum of not less than \$50 per claim in exploration work during the term of said licence or licences, or tendered in lieu thereof \$50 per claim." This amendatory Act of March 1, 1913, was further amended by the Act of March 4, 1914 (p. 259, Chap. 50), by the addition of a paragraph (dd), to be inserted immediately following paragraph (d). The Amendatory Act of March 4, 1914, was itself amended by the Act of March 6, 1915 (p. 183, Chap. 43), by striking out the first paragraph of subsection (1), being 53 lines of such subsection (1), (as counted in the printed act of 1913), and substituting therefor a new subsection (1). The amendatory Act of March 4, 1914, was further amended by the Act of March 6, 1915 (p. 183, Chap. 43), by striking out the added proviso (dd) and by substituting under the (dd) a new proviso.

Section 21 as substituted and amended by these various acts and given as a continuous body, is as follows:

21. (1) It shall be lawful for the Lieutenant-Governor in Council to grant a lease of lands covered by prospecting licence for coal or petroleum or natural-gas mining purposes to any licensee who during the existence of his licence, or within thirty days following the expiration of such licence, produces satisfactory evidence on oath that he has discovered coal, petroleum, or natural gas on the lands held under his licence or group of licences, and who at the time of producing such evidence has deposited in the Department of Lands a sum sufficient in the opinion of the Minister of Lands to cover the first annual rental payable under such lease as may be granted to him under this section and has expended a sum of not less than fifty dollars per claim in exploration work during the term of the last renewal licence, or tendered in lieu thereof the sum of fifty dollars per claim, as hereinafter mentioned, for a term of five years, at an annual rental of fifteen cents per acre; and if during the term of such lease or any renewal thereof, or at the expiration of such term or any renewal thereof, and within three months thereafter, the lessee can show conclusively that he has continuously and vigorously prosecuted the work of coal, petroleum or natural-gas mining, or has expended a reasonable sum of money in the development of a mine on the said lease, or on any group of leases, as hereinafter mentioned, to the satisfaction of the Minister of Lands, and has fully carried out the provisions of his lease, he shall be entitled to purchase the said lands, including the coal, petroleum, and natural gas thereunder, at the rate of twenty dollars per acre, payable in full in one payment at the time of sale, the Crown grant in such case to be in the Form No. 1 in the schedule hereto (all Crown grants heretofore issued under the authority of this section, except where the land has been alienated or held under lease, shall be construed as if they had been in the said form); or, in the event of the land being alienated or held under lease, he shall be entitled to obtain a Crown grant of the coal and petroleum, or of the coal and petroleum and natural gas, underlying said lands according to the reservation made of such coal or petroleum or natural gas in such alienation or lease, upon payment at the rate of fifteen dollars per acre, the Crown grant in such case to be in the Form No. 2, or the Form No. 3 in the schedule hereto. Such grant shall reserve to his Majesty the royalty mentioned in paragraph (c) of this subsection. (1915, Chap. 43, Sec. 3.)

(a). Provided, That a lease shall not be issued until after the land has been surveyed by a Provincial land surveyor to the satisfaction of the Minister of Lands:

(b). Provided also that in the case of lands held under licence adjoining Crown-granted lands owned by the licensee of such lands, the grant to which

conveys the coal thereunder, such licensee shall have the option of grouping nine adjoining licences with such Crown-granted lands and of performing on the said Crown-granted lands the work required to be performed by this section upon lands held under licence, provided he can prove to the satisfaction of the Minister of Lands that there are reasonable grounds for believing that coal, petroleum, or natural gas exists under said lands held under licence; such work to be performed to the satisfaction of the Minister of Lands to the extent of not less than one hundred dollars in each year for each licence included in such group.

(c). Provided further that, in addition to the annual rental of fifteen cents per acre, the lessee or grantee shall pay to and for the use of His Majesty a Royalty of two and one-half cents per barrel, containing thirty-five imperial gallons, on all crude petroleum raised or gotten from the leased or granted premises, and such royalty upon the natural gas raised or gotten from the leased or granted premises as may be fixed from time to time by the Lieutenant-Governor in Council.

(d). Provided further that the lease shall contain provisions binding the lessee to carry on coal or petroleum or natural gas mining and works incidental thereto, and to expend not less than the sum of one hundred dollars in each and every year in the development of a mine; or, in the alternative, to pay to the Minister of Lands the sum of one hundred dollars in each year in lieu of performing said development work; and to make a reasonable use of the premises thereby granted for the purposes intended; and any such lease may be subject to any general stipulations which the Lieutenant-Governor in Council may see fit to impose. (1913, Chap. 44, Sec. 9.)

(dd). Provided also that in case any lessee has performed or may hereafter perform development work as aforesaid on the lands embraced within his lease during any one year since the first day of January, 1913, to the value of one hundred dollars or more in excess of the minimum amount of work required by this act to be done in any one year, he shall have the right to apply such excess work, to the value of each one hundred dollars, in satisfaction of the work requirement for each subsequent year that the existing lease has remained or remains in force. (1915, ch. 43, sec. 4.)

(e). Provided further that any number of persons, not exceeding ten, uniting in partnership for the purpose of holding and working coal and petroleum lands which adjoin each other, and for which leases have been granted, shall be entitled to work such lands as a firm; and in such case it shall not be necessary for each leasehold to be worked separately, provided work is carried on upon any one of them to the satisfaction of the Minister of Lands and to the extent of not less than one hundred dollars in each year for each lease.

(f). Provided also that in the case of lands held under lease adjoining Crown-granted lands owned by the lessee of said lands, the grants to which convey the coal thereunder, such lessee shall have the option of grouping nine adjoining leases with such Crown-granted lands and of performing on such Crown-granted lands the work required to be performed by this section upon lands held under lease; such work to be performed to the satisfaction of the Minister of Lands to the extent of not less than two hundred and fifty dollars in each year for each lease included in such group; and provided such lessee can prove to the satisfaction of the Minister of Lands that there are reasonable grounds for believing that coal or petroleum or natural gas exists under said lands held under lease: Provided that in the case of lands covered by water, the lease shall contain a provision that the same may be grouped with Crown-granted lands adjoining one or more of the leaseholds to be grouped; and in such case

it shall not be necessary to work such leaseholds, provided work is carried on upon such Crown-granted lands to the satisfaction of the Minister of Lands and to the extent of not less than two hundred and fifty dollars in each year for each lease; and such persons or incorporated companies shall be entitled to group the leaseholds held by them in the same manner as leaseholds may be grouped together or worked together in partnership.

(g). It shall be lawful for the Lieutenant-Governor in Council, where coal or petroleum or natural gas has not been discovered within the boundaries of a license, to grant a lease of such ground, provided sufficient proof has been submitted to the satisfaction of the Minister of Lands that coal or petroleum or natural gas has been discovered on lands owned by the licensee adjoining or contiguous to such licence in the Crown grant of which the coal underlying said lands has passed to the grantee, and provided that evidence satisfactory to the Minister of Lands has been produced proving that there are reasonable grounds for believing that coal or petroleum or natural gas exists under said lands held under licence.

(h). Provided also that if any person or incorporated company shall hold more than one lease of lands which adjoin each other, it shall not be necessary for each leasehold to be worked separately, provided work is carried on upon any one of them to the satisfaction of the Minister of Lands, and to the extent of not less than one hundred dollars in each year for each lease; but this provision shall not apply to more than ten of such leases. (1913, Chap. 44, Sec. 9.)

(2). Upon the holder of any lease issued under this section paying the sum of one hundred dollars as a renewal fee for each parcel of six hundred and forty acres covered by the lease, the Lieutenant-Governor in Council may renew the lease for a further term of three years. Such renewed lease shall be subject to all the terms, conditions, and rentals of the original lease, and the lessee during the renewed term shall have and possess rights and privileges similar in all respects to those held by him under the original lease:

(a). Provided that the provisions of this subsection shall apply to lessees who have pending applications to exercise the right of purchase under their leases, in the event of their failing to fully satisfy the Minister of Lands that they have expended the required sum of five hundred dollars upon each lease, even though the term granted by such lease has expired. (1910, Chap. 33, Sec. 4; 1911, Chap. 34, Secs. 3, 4, 5, 6; R. S. 1911, Chap. 159, Sec. 21.)

NOTE: Section 22, R. S. 1911, (p. 1890, Chap. 159), was amended by the Act of March 1, 1913, (p. 253, Chap. 44), by striking out the words "and petroleum," in the second line thereof (as counted in the printed act in R. S. 1911), and inserting the words "petroleum and natural gas." The original section as thus amended, and as it would now stand, reads as follows:

22. It shall be lawful for the Lieutenant-Governor in Council to grant the coal, petroleum and natural gas believed to exist in lands of the Crown under the sea to any person desirous of purchasing the same pursuant to the last preceding section, upon payment therefor of the sum of fifteen dollars per acre for such lands; the Crown grant in such case to be in the Form No. 2 in the Schedule hereto. (1910, Chap. 33, Sec. 5; 1911, Chap. 34, Sec. 7; R. S. 1911, Chap. 159, Sec. 22; 1913, Chap. 44, Sec. 10.)

NOTE: Section 23, R. S. 1911, (p. 1890, Chap. 159), was amended by the Act of March 1, 1913, (p. 253, Chap. 44), by inserting after the word "petroleum" in the first line (as printed in the act in R. S. 1911), the words "or natural gas." The original section as thus amended and as it would now stand, reads as follows:

23. In any case in which the coal or petroleum or natural gas underlying lands previously alienated or held under lease is granted to any lessee under

the provisions of section 21 of this Act, such grantee shall be deemed to acquire also the right to enter upon the surface of said lands for mining purposes, and to occupy and use such portion of said surface as may be reasonably necessary for mining purposes: Provided that prior to such entry being made or such surface being occupied and used as aforesaid, the lessee shall give adequate security to the Minister of Lands for any loss or damage which may be caused by such entry, use, or occupation, and shall, after such entry and before any of said lands are permanently used or occupied as aforesaid, make full compensation for said loss or damage; the amount of such compensation, in case the parties differ, to be referred to arbitration under the provisions of the "Arbitration Act." (1910, Chap. 33, Sec. 8 (part); R. S. 1911, Chap. 159, Sec. 23; 1913, Chap. 44, Sec. 11.)

24. With respect to leases granted prior to the tenth day of March, 1910, it shall be deemed a sufficient compliance with the lessee's covenant continuously and vigorously to prosecute the work of coal or petroleum mining if such lessee shall prove to the satisfaction of the Minister of Lands that there has been expended upon the said lease or any group of leases, as hereinbefore provided, a sum of money not less than five hundred dollars for each lease, or, in the alternative, any lessee may pay to the Minister of Lands such sum of five hundred dollars for each lease in full satisfaction of such covenant for work mentioned in such lease. (1910, Chap. 33, Sec. 8 (part).)

NOTE: Section 24a was added by the act of 1912 (p. 149, sec. 4, Ch. 24). The act of 1912 was amended by the Act of 1913 (p. 253, Chap. 44, Sec. 12). The act of 1913 was repealed and a new section substituted by the Act of March 4, 1914 (p. 259, Chap. 50, sec. 9), and the substituted section is as follows:

24a. (1). All surveys of lands held under coal or petroleum or natural gas license shall be made only by a surveyor approved of and acting under instructions from the Minister of Lands, who may from time to time issue regulations and instructions governing the manner and methods of making surveys of lands dealt with under this Act.

(2). It shall be lawful for the Minister of Lands at any time to cause a survey to be made of any lands held under coal, petroleum, or natural gas licence, and to make a charge for such survey against such licence, which charge must be paid by the holder of such licence before application for a lease of said lands can be made: Provided, however, that in the event of the Minister of Lands notifying the holder of any such licence that it is his intention to cause a survey to be made of the ground covered by the same, such licensee shall be relieved of any requirement to make survey, and no unauthorized survey made subsequent to the date of such aforesaid notification shall be accepted as valid. (1914, Chap. 50, Sec. 9.)

NOTE: Here follow the original sections of Revised Statutes 1911, Chap. 159, p. 1891:

ASSIGNMENTS.

25. Every assignment of a licence or lease issued under the provisions of this Act shall be filed in the Department of Lands, and a fee of five dollars shall be payable in respect of each licence or lease assigned. (1910, Chap. 33, Sec. 7 (Part).)

DISPUTES AND APPEALS.

26. No lease shall be granted under the provisions of the "Coal mines Act" or of this Act, covering land or lands in dispute and in pending litigation, until such dispute or pending litigation is finally determined. (1907, Chap. 28, sec. 8.)

27. In any application under the provisions of this Act regarding which any adverse claim or protest may have been lodged or objection taken, the Minister of Lands, or the Commissioner of Lands for the district when so directed by the Minister of Lands, or the Deputy Minister of Lands when so directed by the Minister of Lands, shall have power to hear, settle, and determine the rights of the adverse claimants, and to make such order in the premises as he may deem just, and for all and any of the purposes aforesaid he shall have full power to summon and examine under oath the parties and witnesses; but such decision and order, if made by a Commissioner (if any) or the Deputy Minister of Lands, shall be subject to review by the Minister of Lands, and subject to appeal as hereinafter provided: Provided that in case any dispute as to the staking arises, the right to the completion of the application may be recognized according to priority of such staking. (1911, Chap. 34, Sec. 9.)

28. Any person affected by any decision of the Minister of Lands may, within one calendar month after such decision, but not afterwards, appeal to the Supreme Court in a summary manner; and such appeal shall be in the form of a petition, verified by affidavit, to any Judge of such Court, setting out the points relied upon; and a copy of such petition shall be served upon the Minister of Lands, and such time shall be allowed for his answer to the said petition as to the Judge of the Supreme Court may seem advisable; but no such appeal shall be allowed except from decisions on points of law. (1911, Chap. 34, Sec. 10.)

NOTE: Section 28a was added by the Act of March 1, 1913 (p. 253, Chap. 44), and is as follows:

28a. Such sum as may be fixed by the Minister of Lands shall be deposited by the appellant with the Minister of Finance and Agriculture within two weeks from the date of the decision appealed from, as security for the due prosecution of the appeal and submission thereto, and such appeal shall not be heard until the expiration of one month after service upon the Minister or his deputy of notice that such security has been given. (1913, Chap. 44, Sec. 13.)

NOTE: Section 29, R. S. 1911 (p. 1892, Chap. 159), was amended by the Act of March 1, 1913 (p. 253, Chap. 44), by inserting after the word "petroleum" in the tenth line (as counted in the printed act in R. S. 1911), the words "or natural gas." The original section as thus amended and as it would now stand, reads as follows:

RIGHTS OF WAY.

29. It shall be lawful for any proprietor or proprietors of a mine to acquire such a portion of any Crown lands, or lands held under pre-emption or Crown grants, lease or licence, by any person or persons, as may be necessary for affording to the proprietors of any mine communication with the sea-shore, or any river, or public highway, together with a block of land not exceeding five acres at the terminus of such line of communication at the sea, river, highway, or other place of shipment: Provided always, that the land so acquired shall only be used for transporting, storing, and shipping coal or petroleum, or natural gas and for receiving and transporting such animals, materials, commodities, and persons as may be essential to the successful transaction of the business of such mine. (R. S. 1897, Chap. 137, Sec. 13; R. S. 1911, Chap. 159, Sec. 29; 1913, Chap. 44, Sec. 14.)

30. The conveyance of any land acquired under the provisions of the last preceding section shall not confer upon the grantee or grantees therein named the right to the ownership of any minerals thereunder except by consent of the grantor named in such conveyance. (R. S. 1897, Chap. 137, Sec. 14; R. S. 1911, Sec. 30.)

31. Prior to the acquisition of such land, compensation shall be given to the person whose land shall be taken, and if the amount of such compensation and the quantity of land to be taken shall not be agreed upon between the person whose land is to be taken and the proprietors of the mine, the amount thereof shall be ascertained by arbitration pursuant to the "Arbitration Act," and shall be deemed to have been submitted under that Act to the arbitration of a single arbitrator, if the parties shall agree upon such single arbitrator, and, if not, of three arbitrators, one to be appointed by each of the parties in difference, and the third to be chosen by the two so appointed. (R. S. 1897, Chap. 137, Sec. 15; R. S. 1911, Chap. 159, Sec. 31.)

NOTE: Section 31a was added by the Act of February 27, 1912 (p. 149, Chap. 24), and is as follows:

RULES AND REGULATIONS.

31a. It shall be lawful for the Lieutenant-Governor in Council from time to time to make rules and regulations, not inconsistent with the Statute, for carrying into effect and operation the true intent and meaning of this Act, and such rules and regulations shall from time to time be published in the Gazette and signed by the Minister of Lands, and when so published shall have the effect and force of law. (1912, Chap. 24, Sec. 5.)

NOTE: Section 31b was added by the Act of April 5, 1917 (p. 199, Chap. 42). Sections 31c, with subsections (1), (2), and (3), and section 31d, were also added by the same Act, but no reference was made to these latter sections in the enacting clause. The sections added are as follows:

RESERVES.

31b. The Lieutenant-Governor in Council shall have power to open for entry under the provisions of this act any lands of which reservations have been made for temporary purposes, but the order in Council providing for the cancellation shall not take effect until notice thereof shall have been published for sixty days in the Gazette and in some newspaper published for circulating in the land recording district in which the lands proposed to be affected are situate.

31c. (1). The Lieutenant-Governor in Council may at any time by notice signed by the Minister and published in the Gazette reserve from being prospected for, taken, or acquired under this act any coal or petroleum or natural gas existing in any lands mentioned in subsection (1) of Section 2 which are not at the date of the notice included in any licence or lease in force under this act.

(2). The Lieutenant-Governor in Council may prospect or cause to be prospected for the use and purposes of the Crown the coal or petroleum or natural gas so reserved, and may work and develop the same or cause the same to be worked and developed for the purpose of winning and getting from said lands coal or petroleum or natural gas for the purposes aforesaid.

(3). The Lieutenant-Governor in Council may cancel any reservation of coal, or petroleum, or natural gas, made under this section, but the cancellation shall not take effect until notice thereof signed by the Minister is published for sixty days in the Gazette and in some newspaper published or circulating in the land registration district in which the coal, petroleum, or natural gas proposed to be affected is situate.

31d. Section 15 of Chapter 44 of the Statutes of 1913, as amended by Section 5 of Chapter 43 of the Statutes of 1915, is hereby repealed. (1917, Chap. 42, Sec. 2.)

SAVING CLAUSES.

32. Nothing in sections 10 to 16, both inclusive, and section 19 of this Act shall be held to impair or affect any rights acquired by any person under the provisions of the "Coal-mines Act," "Revised Statutes, 1897," chapter 137, before the twenty-fifth day of April, 1907, nor shall those sections affect or prejudice litigation pending or any proceedings theretofore taken under section 9 of the said Act, and all proceedings taken thereunder may be continued to a completion as fully and effectually as if this Act had not been passed. (1907, Chap. 28, Sec. 7; R. S. 1911, Chap. 159, Sec. 32.)

SCHEDULE.

FORM NO. 1.

-----,
Lieutenant Governor.

(Royal Arms.)

"Coal and Petroleum Act."

PROVINCE OF BRITISH COLUMBIA.

-----,
Deputy Minister of Lands.

No.

George V, by the grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To all to whom these presents shall come, GREETING :

KNOW YE that We do by these presents, for Us, Our heirs and successors, in consideration of the sum of ----- dollars to Us paid, give and grant unto -----, h-- heirs and assigns, All th-- parcel-- or lot-- of land situate ----- District, said to contain ----- acres, more or less, and more particularly described on the map or plan hereunto annexed and coloured red, and numbered ---- on the official plan or survey of the said ----- District, in the Province of British Columbia, to have and to hold the said parcel-- or lot-- of land, and all and singular the premises hereby granted, with their appurtenances, unto the said -----, h-- heirs and assigns forever :

Provided nevertheless that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to resume any part of the said lands which it may be deemed necessary to resume for making roads, canals, bridges, towing paths, or other works of public utility or convenience; so, nevertheless, that the lands so to be resumed shall not exceed one-twentieth part of the whole of the lands aforesaid, and that no such resumption shall be made of any lands on which any buildings may have been erected, or which may be in use as gardens or otherwise, for the more convenient occupation of any such buildings :

Provided also that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting under Our or their authority, to enter into and upon any part of the said lands, and to raise and to get thereout any minerals, precious or base, except coal and petroleum, [coal, petroleum and natural gas] (as amended), which may be thereupon or thereunder situate, and to use and enjoy any and every part of the same land, and of the easements

and privileges thereto belonging, for the purpose of such raising and getting, and every other purpose connected therewith, paying in respect of such raising, getting, and use reasonable compensation:

Provided also that it shall be lawful for any person, duly authorized in that behalf by Us, Our heirs and successors, to take and occupy such water privileges, and to have and enjoy such rights of carrying water over, through, or under any parts of the hereditaments hereby granted, as may be reasonably required for mining or agricultural purposes in the vicinity of the said hereditaments, paying therefor a reasonable compensation to the aforesaid _____, h— heirs and assigns:

Provided also that it shall be at all times lawful for any person duly authorized in that behalf by Us, Our heirs and successors, to take from or upon any part of the hereditaments hereby granted, without compensation, any gravel, sand, stone, lime, timber, or other material which may be required in the construction, maintenance, or repair of any roads, ferries, bridges, or other public works:

Provided also that in the event of any of the lands hereby granted being divided into town lots, one-fourth of all the blocks of lots to be selected as provided in the "Land Act" shall be reconveyed to Us and Our successors:

Provided also that all travelled streets, roads, trails, and other highways existing over or through said lands at the date hereof shall be excepted from this grant.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of British Columbia to be hereunto affixed: Witness, His Honour _____, Lieutenant-Governor of Our said Province, at Our Government House, in Our City of Victoria, this ____ day of _____, in the year of our Lord 19__, and in the ____ year of Our Reign.

By command:

Provincial Secretary.

FORM NO. 2.

Lieutenant Governor.

(Royal Arms.)

"Coal and Petroleum Act."

PROVINCE OF BRITISH COLUMBIA.

Deputy Minister of Lands.

No.

George V, by the grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To all to whom these presents shall come, GREETING:

KNOW YE that We do by these presents, for Us, Our heirs and successors, in consideration of the fulfilment of the conditions of the laws providing for the acquisition of coal and petroleum, and of the sum of _____, give and grant unto _____, h— heirs and assigns, all coal and petroleum, and all strata containing coal or petroleum, in or under all that parcel or lot of land situated in _____ District, and numbered _____ on the official plan or survey of the said _____ District, to have and to hold the said coal and petroleum and strata containing coal or petroleum unto the said _____, h— heirs and assigns, forever.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of British Columbia to be hereunto affixed: Witness, His Honour ———, Lieutenant Governor of Our said Province, at Our Government House, in Our City of Victoria, this ——— day of ———, in the year of our Lord 19—, and in the ——— year of Our Reign.

By command:

Provincial Secretary.

(1910, Chap. 33, Schedule.)

STATUTES 1913, P. 253.

MARCH 1, 1913.

CHAPTER 44.

AN ACT further to amend the "Coal and Petroleum Act."

HIS MAJESTY, BY AND WITH THE ADVICE AND CONSENT OF THE LEGISLATIVE ASSEMBLY OF THE PROVINCE OF BRITISH COLUMBIA, ENACTS AS FOLLOWS:

* * * * *

NOTE: Section 15 of this act was amended by the Act of 1915, and as amended was repealed by the Act of 1917, p. is not given.

16. The Schedule to said chapter 159 is hereby amended by adding thereto as "Form No. 3" the form set forth in the Schedule hereto; and by striking out the words "coal and petroleum" where they occur in the proviso in Form No. 1 of said schedule, and inserting the words "coal, petroleum, and natural gas" in lieu thereof.

SCHEDULE.

FORM NO. 3.

Lieutenant Governor.

(Royal Arms.)

"Coal and Petroleum Act."

PROVINCE OF BRITISH COLUMBIA.

Deputy Minister of Lands.

No.

George V, by the grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To all to whom these presents shall come, GREETING:

KNOW YE that We do by these presents, for Us, Our heirs and successors, in consideration of the fulfilment of the conditions of the laws providing for the acquisition of coal, petroleum, and natural gas, and of the sum of ———, give and grant unto ———, h— heirs and assigns, all coal, petroleum, in or under all that parcel or lot of land situated in ——— District, and numbered ——— on the official plan or survey of the said ——— District, to have and to hold the said coal, petroleum, and natural gas and strata containing coal or petroleum unto the said ———, h— heirs and assigns, forever.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of British Columbia to be hereunto

affixed: Witness, His Honour ———, Lieutenant Governor of Our said Province, at Our Government House, in Our City of Victoria, this ——— day of ———, in the year of our Lord 19—, and in the ——— year of Our Reign.

By Command:

Provincial Secretary.

STATUTES 1919, P. 219.

MARCH 29, 1919.

CHAPTER 57.

AN ACT to aid in the development of Coal, Petroleum, and Natural Gas lying under Crown lands.

HIS MAJESTY, BY AND WITH THE ADVICE AND CONSENT OF THE LEGISLATIVE ASSEMBLY OF THE PROVINCE OF BRITISH COLUMBIA, ENACTS AS FOLLOWS:

1. This Act may be cited as the "Coal and Petroleum Appropriation Act, 1919."

2. There is hereby appropriated out of the "Consolidated Revenue Fund" of the province the sum of fifty thousand dollars to be expended and applied during the fiscal year ending the 31st day of March, 1920, by the Department of Lands for the purposes authorized by subsection (2) of Section 31c of the "Coal and Petroleum Act," being Chapter 159 of the "Revised Statutes of British Columbia, 1911," as enacted by Section 2 of the "Coal and Petroleum Act Amendment Act, 1917," being Chapter 42 of the Statutes of 1917.

NEW BRUNSWICK.

CONTENTS.

	Page.
Oil and gas-----	396
Definitions—Minerals and mining—Oil and gas included-----	396
License—Prospecting—General regulations-----	397
Leases—Returns—Royalties and rentals-----	399
Miscellaneous—General regulations-----	405
Discovery and development—Explorations—License or lease—Pipe line-----	412

OIL AND GAS.

DEFINITIONS—MINERALS AND MINING—OIL AND GAS INCLUDED.

CONSOLIDATED STATUTES, 1903, P. 343.

TITLE VIII.

CHAPTER 30.

RESPECTING MINES AND MINERALS.

SHORT TITLE.

1. This Chapter may be cited as "The General Mining Act." (54 V. c. 16, s. 1.)

Interpretation.

2. Where the following words occur in this Chapter, or in orders in Council or Regulations under this Chapter, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

(1) The word "mine" shall mean any locality in which any * * * oil, or natural gas, exist or may be worked.

(2) The verb "to mine" and participle "mining," shall mean and include * * * any method of obtaining oil or natural gas by boring, or by means of wells, or by any other appliances or method whatsoever. (54 V. C. 16, s. 2; 56 V. c. 10, s. 1; 62 V. c. 9, s. 2.)

(3) "Mining division" shall mean and include any tract of country declared to be a mining division within this Chapter. * * *

(7) "Lessee" shall include and mean sub-lessee, or any person deriving title to a mine through a lessee of the Crown. * * *

(10) "Licensee" shall mean any person holding a license under this Chapter. * * *

(12) "License to search" shall mean a license to prospect or search for mines other than gold, or gold and silver. (54 V. c. 16, s. 2.)

(13) "Minerals" shall include minerals, and, without limitation or restriction of the scope or meaning of the last preceding word, "minerals" shall include oil and natural gas. * * * (62 V. c. 9, s. 4, part.)

(14) "Oil" shall mean and include all crude petroleum oil, and all coal and mineral oil existing or which may be found in its natural state within the Province, under the surface of the earth. (62 V. c. 9, s. 1, part.)

(15) "Natural Gas" shall mean and include all natural gas existing, or which may be found in its natural state, within the Province, under the surface of the earth. (62 V. c. 9, s. 1, part.)

3. Aliens as well as British subjects may enjoy the benefit of this Chapter by complying with its provisions and submitting thereto. (54 V. C. 16, s. 3.)

4. (1) It is hereby declared to be the law that in all grants in which mines and minerals have been excepted and reserved to the Crown, such mining rights are property separate from the soil covering such mines and minerals, and constitute a property under the soil, which is public property, independent from that of the soil, which is above it. (54 V. c. 16, s. 4.)

(2) The words "mines and minerals," and the words "such mining rights," in this section, are hereby declared to extend to and include oil and natural gas. (62 V. c. 9, s. 4, part.)

(3) * * *

(a) Gypsum shall be deemed a mineral and bituminous shale and alberite shall be deemed to be minerals and coal deposits. (5 Geo. V. c. 39, s. 2.)

5. The administration of this Chapter shall devolve upon and be attached to the department of Crown lands and the Surveyor-General shall be charged with the duty of carrying out and enforcing the provisions hereof. (54 V. c. 16, s. 6.)

6. Neither the Surveyor-General, Deputy Surveyor-General, any employee in the Crown Land Office, nor any officer appointed under the authority of this Chapter, shall be directly or indirectly interested in any mine or mining operations, or in the proceeds or profits thereof, nor shall any of them act as agent or attorney of any person interested therein, under a penalty of one thousand dollars for each offence, to be recovered in the Supreme Court. (54 V. c. 16, s. 7.)

OF GOLD, AND GOLD AND SILVER MINES.

* * * * *

LICENSE—PROSPECTING—GENERAL REGULATIONS.

OF MINES OTHER THAN GOLD AND SILVER MINES.

89. (1) The Surveyor-General, may, upon application, grant licenses to search, to be in force for one year and six months from the date of application therefor, to enter upon any lands in this Province not already applied for or under license or lease for mining purposes, and to dig and explore for such minerals other than gold or gold and silver as the Crown holds for the benefit of the Province, a bond being first given to the Surveyor-General with sufficient sureties to his satisfaction that, in the event of entry being made upon private lands, recompense shall be made for damages in the manner hereinafter provided. (54 V. c. 16, s. 81.)

(2) Where applications for license to search are filed for blocks of five square miles or less, and there are one or more 20 year leases or licenses to work in force, or applications have been filed for licenses to work within such area, and one or more such licenses to work, or applications therefor, expire, or one or more of such leases are cancelled within the time limits of the license to search, this license shall not be construed to include the area or areas included in such cancelled leases or expired licenses to work, or applications therefor, but such

areas shall, on the cancellation thereof, or on expiry, be declared vacant and open for application for Mining Rights.

90. No such application shall be valid unless accompanied by a payment of twenty dollars, and the license to search may cover any single tract of ground not exceeding five square miles in extent, but not more than two and a half miles in length, in a rectangular shape, the lines running magnetic east and west and north and south. (54 V. c. 16, s. 82; 56 V. c. 10, s. 9.)

91. Upon such application and payment being made, the Surveyor-General where necessary, shall cause the lands applied for to be surveyed and laid off, and a full description thereof shall be embodied in the license to search, but no such license shall authorize entry upon any lands which, in accordance with section 40 of this Chapter, are forbidden to be entered upon except as in that section excepted. (54 V. c. 16, s. 83.)

92. The cost of such survey shall be defrayed by the licensees or lessees, and the search for minerals under such licenses shall be made free of all expense to the Government; and the holder of the license shall, within the time that the same shall be in force, and with all convenient speed, make a full and correct report of the results of his exploration to the Surveyor-General. (54 V. c. 16, s. 84.)

93. When a license to search for mines, other than gold and silver, has been applied for, it shall be lawful for the Surveyor-General to receive applications for other licenses to search (called second rights) over the same area; provided that he shall receive no more applications than there are areas of one square mile each contained within the area so first applied for, and on the expiration of the license to search granted under the first application, or on the selection of the one square mile there under the license to search can be granted under the second application, and so on, until the whole area is disposed of. (54 V. c. 16, s. 86.)

94. If the proprietor of private lands entered under such license shall seek damages, the proceedings for ascertaining the amount of such damages and making payment of the same, shall be the same as provided for by this Chapter in the case of prospecting licenses for gold. (54 V. c. 16, s. 87.)

95. The holder of a license to search, may at any time before the expiration thereof, select from the land covered by such license, an area of one square mile, for the purpose of working the mines and minerals therein and may make an application in writing to the Surveyor-General for a license to work the same, which application shall be accompanied by a payment of fifty dollars. (54 V. c. 16, s. 88.)

96. Upon such application and payment being made the Surveyor-General shall cause the portion so selected to be surveyed and laid off, and the applicant shall defray the expenses of such survey, which said portion shall be in one block, the length of which shall not exceed two and a half miles, and, as far as possible, in a rectangular block, the lines running by the magnet north and south and east and west; and the person making such survey shall make a full and accurate plan thereof, and transmit the same to the Surveyor-General. (54 V. c. 16, s. 89; 56 V. c. 10, s. 10.)

97. All the provisions herein contained relative to settlement by agreement or arbitration with the owner of the soil, where the same is private land, for damages done to his land, and to payment therefor, as set forth in sections 16 to 24, inclusive, and to the occupation of such lands as set forth in section 28, and to the exemption of certain descriptions thereof from liability to be entered as specified in section 40, and to the vesting of interest forfeited under this chapter as specified in section 30, shall be applicable and in force in the

case of mines other than gold or gold and silver mines, equally as in gold or gold and silver mines. (54 V. c. 16, s. 90.)

98. Upon complying with the requirements of this Chapter, the applicant shall be entitled to a license to work the one square mile applied for; the bond given for the license to search, under which the license to work was obtained, remaining in full force and virtue. (54 V. c. 16, s. 91.)

99. Every license to work shall be for a term of two years from the date of application, and shall be extended to three years upon the additional payment of the holder of the license of one-half of the amount originally paid for such license; and within such term the holder of the license shall commence effective and not colorable mining operations, and shall continue the same in good faith until the termination of such term; and in case the same person shall hold licenses to work over several adjoining areas, and shall have commenced effective mining operations on one of these areas, the Surveyor-General may, if it be shown to his satisfaction that the area so opened is by reason of a deficiency of mineral or other natural cause, insufficient for effective working, allow one of the adjoining areas to be combined with it, and the two so combined to be considered as one area with respect to the commencement and continuation of effective mining operations. (54 V. c. 16, s. 92.)

100. Any party may apply for a license to work without having previously obtained or applied for a license to search, and in such case his application shall embody a description of the area applied for, and upon complying with all the antecedent conditions herein before set forth, except those which relate solely to licenses to search, and a bond being given to the Surveyor-General as for a license to search, he shall be entitled to such license to work. (45 V. c. 16, s. 93.)

101. The holder of a license to work, or those representing him, having complied with the terms of the preceding section, shall on or before the termination of his license, be entitled to a lease of the premises described therein, which lease shall contain all the ordinary provisions of mining leases, with such conditions as the Lieutenant-Governor-in-Council may think necessary to ensure the effective and safe working of the mines on such premises. (54 V. c. 16, s. 94.)

101. (a) If other minerals are discovered or found to exist in any area covered by a mining lease granted under this chapter for a specified mineral, the Surveyor-General may grant license to search; license to work; prospecting license or a mining lease over such lease for other minerals than already granted, provided, such license or lease will not interfere with the actual workings of the lease in force. (10 Edw. VII, c. 36, s. 1.)

101. (b) Where a prospecting license, and a license to search or work are granted over the same area, the priority of right to dig and explore in any particular place, shall be with the licensee who first commenced work at that place. (10 Edw. VII, c. 36, s. 2.)

LEASES—RETURNS—ROYALTIES AND RENTALS.

LEASES.

102. No lease shall be issued unless it shall have been shown to the satisfaction of the Surveyor-General that the conditions relative to commencement and continuance of effective mining operations in the license to work have been fully complied with. (54 V. c. 16, s. 95.)

103. Leases of mines, other than gold mines, or gold and silver mines, granted under the provisions of this Chapter, shall be executed by the Surveyor-General

and the lessee in the same manner as provided in section 15 of this chapter for leases of gold mines, and may be in Form (A 1). (54 V. c. 16, s. 96.)

104. Leases of mines, other than gold, or gold and silver mines, shall be for the term of twenty years, and shall contain all the conditions, provisions, provisos, and reservations usually contained in such leases, or that may be required for the safe and proper working of the mines, or that may be required by an order of the Lieutenant-Governor-in-Council, or by this Chapter, or any other Act hereafter passed by the Legislature of this Province. The annual rent payable by lessees of mines, other than gold or gold and silver, shall be fixed by the Lieutenant-Governor-in-Council, having regard to the circumstances of each case and to the royalty payable to the Crown, and shall be payable each year in advance, and such leases may be renewed on the same terms and conditions as are hereafter provided, but such renewals shall not extend or be construed to extend to a period beyond eighty years from the date of the lease; provided however that existing leases, covering deposits of gypsum, or sulphate or lime or carbonate of lime, may, by order of the Lieutenant-Governor-in-Council, be extended in perpetuity upon continued compliance by the lessee with the other terms and conditions set forth in the original lease. (54 V. c. 16, s. 96 (a) ; 62 V. c. 26, sec. 11 ; 2 Edw. VII, c. 25, s. 2.)

105. In the granting of leases hereafter, there shall be reserved as a barrier a space of ten yards in width, running all around the area leased, which barrier shall not be opened or mined except by the consent of the owner of the adjoining area, or by the order of the Lieutenant-Governor-in-Council; and in case of a mine in lands covered with water, the barrier of reservation as above shall be twenty-five yards in width, and shall not be opened or mined unless by the consent of the owner of the adjoining area, or by the order of the Lieutenant-Governor-in-Council. (54 V. c. 16, s. 96 (b).)

* * * * *

107. The Lieutenant-Governor-in-Council is hereby authorized and empowered under any special circumstances which may seem to him to make it expedient and in the public interest so to do, and upon the recommendation of the Minister of Lands and Mines, by special order in Council, to authorize the issue of a mining lease for a term of twenty years, and renewable in accordance with the provisions of section 115, and upon such conditions as the Lieutenant-Governor-in-Council may think fit, to any person or company, to search or work, or mine and for such area as may be fixed or prescribed in the order, and such lease may, notwithstanding anything contained in this Chapter, or any Act in amendment thereof, comprise and include areas embraced in several separate licenses to search or work, or areas included in several separate leases. (56 V. c. 10, s. 12 ; 2 Edw. VII. c. 25, s. 1 ; 4 Geo. V. c. 27, s. 2.)

* * * * *

CORNER POSTS.

109 All lessees of mining areas other than gold, or gold and silver mining areas, shall, within six months after the issuing of such leases, place or cause to be placed at each and every corner of the areas contained in their respective leases, a post or monument of stone or other durable material, of such size, nature and character as the Surveyor-General may determine.

(a) Each post or monument shall have distinguishing letters or a suitable inscription cut or marked thereon, designating the corner where placed; provided always, that in case of areas any corners of which are covered with water, or where the placing of such posts or monuments at such corners would

cause private or public inconvenience, it shall be lawful and requisite for the lessees, with the consent of the Surveyor-General, to place such posts or monuments on the land adjoining such corners, in such position as shall be approved by the Surveyor-General.

(b) The area of each lease shall be defined as herein required, according to the priority of the granting of such lease, and the lessees of the area first leased shall give to the lessee of the adjoining areas, or their agents, a written notice that on a day named, to be not less than ten days after the service of such notice, a survey will be made for purpose of establishing the boundaries of the area and placing the posts or monuments required by this Chapter. Such survey shall be made by a sworn surveyor whose appointment shall be sanctioned by the Surveyor-General, and such surveyor shall make a return of such survey, with an accurate plan thereof, to the Surveyor-General.

(c) If within forty days after such return has been made by the surveyor to the Surveyor-General, no complaint be made to the Surveyor-General that the boundary lines of the area as so defined are not in accordance with the lines as originally defined, the boundary lines of the area as so defined by the surveyor shall, as between the lessees, be held to be the true and correct boundary lines of the area.

(d) If within the year above mentioned, from disagreement or otherwise, such boundary lines are not established and defined, as required by this Chapter, the Surveyor-General may cause a survey to be made, and the area to be defined, as hereinbefore required, and the boundaries so established shall be held to be finally determined.

(e) The expenses of all surveys, and of the placing or erection of all such posts or monuments as required by this Chapter, shall be paid by the lessees of the areas defined; and where such surveys are made, and such posts or monuments are established by virtue of the next preceding section, such expenses may be sued for and recovered from the lessees in the name of the Surveyor-General as an ordinary debt of like amount.

(f) Each monument or post, as often as it shall be destroyed or removed, shall be replaced by the lessee at his own expense within one month; and the proceedings therefor shall be the same as hereinbefore required for the original definition of the area.

(g) Where the lessee is not the owner of the land included in the area leased, and on which the boundary post or monuments are required to be placed, he shall be at liberty to set them up on such land, but shall pay the proprietor for the damage caused thereby.

(h) If the proprietor and the lessee can not agree on the amount of such damages, the lessee may call on any three disinterested justices of the peace for the county in which the area is, to appraise the same. The justices so called upon shall forthwith appraise such damages, and their award, or that of any two of them, shall be final.

(i) Each of such justices of the peace shall be entitled to one dollar a day for the time actually and necessarily employed in making such appraisal, besides traveling fees at the rate of two cents per mile, to be computed from the residence of the justice to the place where the appraisal is made; such pay and traveling fees to be paid by the lessee.

(j) Any lessee neglecting to set up such post or monument, or to renew or replace the same when removed or destroyed, as required by this Chapter, shall forfeit a sum not exceeding one hundred dollars for every such post or monument he shall neglect to set up or replace.

(k) Any person wilfully destroying, defacing, injuring, or removing any such post or monument, or attempting so to do, shall forfeit a sum not exceeding one hundred dollars for each offence.

(l) Any penalty under this Chapter shall be recovered in the name of the Surveyor-General, before two justices of the peace for the county wherein the offence is committed, in the same manner as an ordinary debt. (54 V. c. 16, s. 99.)

QUARTERLY RETURNS.

110. On or before the tenth day of each of the months of January, April, July and October in each and every year, the owner, agent, or manager of every mine (other than a gold, or gold and silver mine) leased from the Crown, shall send to the Surveyor-General a correct return, specifying the quantity of coal, iron ore, or other mineral wrought or gotten in such mine, the probable use and destination of the same and the amount of royalty which has accrued upon such material extracted during the last previous quarter, and on or before the last days of January, April, July and October in each year a correct return specifying the number of days' labor and the number of persons ordinarily employed in or about such mine, below ground and above ground, and the different classes of the persons so employed, and the cost and description of all the shafts, quarries, slopes, levels, planes, works, machinery, tramways, and railways, sunk, driven, opened or constructed, during the preceding quarter. Such return shall be sworn to by the agent or manager, and by one or more credible persons principally employed in or about the working and management of such mine. (54 V. c. 16, s. 100.)

ROYALTIES.

111. (1) All ores and minerals (other than gold or gold or silver) mined, wrought, or gotten under authority of licenses or leases granted under the provisions of this Chapter, or any Act heretofore passed by the Legislature of this Province, shall be subject to the following royalties to the Crown for the use of the Province, that is to say (54 V. c. 16, s. 101): * * *

(i) OIL. Five per cent. of the output delivered at the well's mouth, or five per cent of the commercial value thereof, at the option of the Lieutenant-Governor-in-Council. (62 V. c. 9, sec. 3, part.)

(j) NATURAL GAS. Five per cent. of the output delivered at the well's mouth, or five per cent. of the commercial value thereof, at the option of the Lieutenant-Governor-in-Council. (62 V. c. 9, s. 3, part.) * * *

112. All rentals payable under this Chapter, whether by virtue of a lease heretofore made or which may be hereafter made, shall be payable on the thirtieth day of June in each and every year; all Royalties on coal shall be payable monthly on the first day of each month, and all other Royalties shall be payable quarterly on the first days of January, April, July and October in each year. All said rentals and Royalties shall be payable at the Crown Land Office.

113. All royalties due to the Province shall bear interest at the rate of five per cent. per annum. (54 V. c. 16, s. 101 (5).)

114. Notwithstanding anything in this Chapter contained, the Governor-in-Council may, by order in Council, whenever it shall be deemed necessary to assure speedy development, provide that the royalty reserved under this Chapter shall not be imposed or collected upon any ores mined, wrought or taken, until after ten years from the date of the mining lease; and whenever concentrating, smelting, reducing or other works are established within the Province

the Governor-in-Council may, by order in Council, make a reservation of a sufficient tract of wood land in the vicinity of such works as may be deemed necessary to provide fuel and timber for mining purposes, in connection with the successful operation of said works. (55 V. c. 10, s. 1; 56 V. c. 10, s. 14.)

RENEWALS.

115. The lessees of mines other than gold, or gold and silver mines in this Province, their executors, administrators, and assigns, and mining companies, shall, upon giving notice in writing to the Surveyor-General at least six months previous to the expiration of their leases respectively, of their intention to renew such leases respectively for a further period of twenty years from the expiration thereof, be entitled to a renewal thereof for such extended term, upon the same terms, conditions, and covenants as contained in the original lease, or as prescribed by this Chapter, or by any Act that may be passed by the Legislature of this Province, and in like manner, upon giving a like notice before the expiration of such renewed term, to a second renewal and extension for a term of twenty years from and after the expiration of such renewed term, and in like manner upon giving like notice before the expiration of such second renewed term to a third renewal and extension of twenty years from and after the expiration of such second renewed term, provided that at the time of giving such notices, and the expiration of such terms, respectively, the said lessees, their executors, administrators, or assigns, are and shall continue to be bona fide working the areas comprised within their respective leases and complying with the terms, covenants, and stipulations in their respective leases contained, within the true intent and meaning of section 117 of this Chapter, and provided that in no case shall such renewal or renewals extend, or be construed to extend, to a period beyond eighty years from the date of the original lease. No such renewed lease shall, however, include in respect of each mine worked a larger area than five square miles. * * * (54 V. c. 16, s. 102.)

SURRENDER.

116. The holder of any lease may at any time surrender the same by notice in writing, signed by him and filed together with his counterpart of lease in the Crown Land Office; but in case the counterpart of the lease has been lost or can not be obtained, an affidavit to that effect made by the lessee will be received in place of such counterpart; but nothing herein contained shall be construed to discharge him from liability in respect of any covenants in the lease for or in respect of any act, matter or thing for which at the date of such surrender he was liable under the terms of such lease. (54 V. c. 16, s. 103.)

FORFEITURE.

117. (1) Whenever it shall be represented to, or shall come to the knowledge of the Surveyor-General, that work upon any mine or mining operations upon any area held or claimed under a lease from the Crown or under a lease granted pursuant to this Chapter, or any Act or Acts in amendment thereof, have been abandoned or not carried on for the space of six months, or have not been efficiently and continuously carried on, or have been carried on only colorably, or to prevent a forfeiture under the terms of such lease, the Surveyor-General may cause a notice to the effect of the form in schedule (E) to this Chapter to be personally served upon the lessee, or some one of the lessees,

where more than one are included in the same lease, or on his or their agent or person principally employed on the premises, or shall cause such notice to be posted upon the premises leased, where no person can be found upon whom to make service thereof, informing him of such charge or information, and appointing a time, to be not less than thirty days after the service or posting up of such notice, and also a place for the investigation thereof. At the time and place appointed the Surveyor-General shall proceed to investigate such case and decide thereon, and may either cancel such lease, or extend the time during which it shall be necessary to commence and carry on effective mining operations on the leased premises, or may make such other order or decision as may seem to him to be just and equitable; and shall thereupon give notice of his decision to the lessee, or his agent, by causing such notice to be served or posted up as in this section above directed; and in case further time is given to the lessee or lessees, if within such term as may be prescribed by the Surveyor-General, the lessee or his assignee shall not commence and prosecute effective mining operation to the satisfaction of the Surveyor-General, according to the true intent and meaning of the terms, covenants and stipulations in the lease contained, and of this section such mining areas so leased shall be forfeited, and the Surveyor-General, in case he decides to cancel such lease, or in case the conditions on which further time is given are not complied with, may grant a new lease or leases of such area. (59 V. c. 27, s. 2; 3 Edw. VII, c. 35, s. 2.)

2. In case work upon any mine or mining operations upon any such area have been abandoned or not carried on for the space of six months, or have not been efficiently and continuously carried on, or have been carried on only colorably, or to prevent a forfeiture under the terms of the lease, the Surveyor-General, instead of taking the course provided for in the preceding subsection, may, in case such lease is held by an incorporated company and he thinks it necessary in the interests of a minority of the shareholders so to do, recommend to the Judge in Equity the appointment of a trustee to work and operate such leased premises, and thereupon the Judge in Equity may appoint such trustee to work and operate the same for the benefit of the shareholders, and such trustee shall have power, with the approval of the Judge, to mortgage such leased premises, for the purpose of raising the necessary funds to work and operate the same. Such trustee shall, before taking charge or control of such leased premises enter into a bond or give such other security as the Judge in Equity may approve, to effectually prosecute the work of operating such leased premises and for the due and proper accounting for the earnings, as the Judge, upon recommendation of the Surveyor-General shall require, such trustee to be allowed reasonable compensation in the discretion of the Judge for his services in connection with the management and operation of such leased premises. The Judge may make all such orders upon the recommendation of the Surveyor-General as he may think desirable or necessary; and in the best interests of all the shareholders. (3 Edw. VII, c. 35, s. 3.)

118. No mere colorable working shall prevent a forfeiture; and the Surveyor-General shall have power to examine witnesses on oath, and receive all other necessary testimony in respect of the mining operations and if the decision shall be that such operations are not effective, but merely colorable, the mine or mines shall be declared forfeited, and notice of the decision shall be given in accordance with the provisions of section 117 (1). (54 V. c. 16, s. 105.)

119. The decision of such Surveyor-General shall be sufficient if in the form in schedule (F), and need not show jurisdictional facts upon its face, and the lessee or assignee may appeal to the Supreme Court, or a Judge thereof at

chambers, against such decisions; any party desiring to appeal from such decision shall give notice in writing to the Surveyor-General of his intention to appeal, within twenty days after such decision, or within twenty days after such decision is made known to the party dissatisfied therewith, but always within one year from the date of such decision, and shall make and file with such notice an affidavit that he is dissatisfied with such judgment or decision, and that he verily believes the lease should not have been forfeited, and shall also set forth therein the grounds of his appeal, and shall within ten days thereafter enter into a bond with two sureties, in the penalty of six hundred dollars, to the satisfaction of the Surveyor-General, to enter and prosecute his appeal without delay, according to the provisions of this Chapter, and pay all costs which may be adjudged against him by the court of appeal; and thereupon the Surveyor-General shall file such notice and, affidavit, together with all papers and documents connected with such appeal, with the clerk of the Pleas at Fredericton. (54 V. c. 16, s. 106, am.)

120. Where notices are to be posted on the premises under this Chapter, and the areas in respect of which the notices are to be posted, shall be covered with water, the notices may be posted on the land as near as conveniently may be to the areas so covered with water. (54 V. c. 16, s. 107).

121. Whenever a lease of a mine other than of gold or gold and silver, shall become forfeited under this Chapter, the Lieutenant-Governor-in-Council may direct that such mine shall be relet or regranted by the Surveyor-General only subject to such additional terms and conditions to those contained in the original lease as the Lieutenant-Governor-in-Council may prescribe. (54 V. c. 16, s. 108, am.)

122. There shall be kept in the office of the Surveyor-General maps of the different mining districts in the Province, on which shall be delineated as accurately as may be, all the areas, under license or lease as mines other than gold or gold and silver mines, and also a book or books of registry, in which shall be registered all the license and leases of such areas, and such maps and book or books shall be open to the inspection of the public. (54 V. c. 16, s. 109.)

123. The provisions of the foregoing sections from 89 to 122, both inclusive, shall apply only to mines other than gold and gold and silver mines. (54 V. c. 16, s. 110.)

* * * * *

MISCELLANEOUS—GENERAL REGULATIONS.

125. The Surveyor-General may lease Crown lands being within the limits of any proclaimed gold district, or comprising any tract within which the mines and minerals other than gold or gold and silver are under license or lease, for purposes other than mining, reserving always the rights of present or future lessees of mining areas therein, and subject to such other reservations, and for such time and upon such conditions as the Lieutenant-Governor-in-Council may direct; and may also sell any timber not previously disposed of growing or being upon any part of the Crown domain included within such gold district or other tract under license or lease for mines or minerals other than gold or gold and silver, upon such terms as the Lieutenant-Governor-in-Council shall authorize and direct. (54 V. c. 16, s. 111.)

126. No lease granted under the provisions of this Chapter shall be void against any subsequent purchaser or mortgagee for valuable consideration or judgment creditor, by reason of such lease not having been previously registered in accordance with the provisions of Chapter 151 of these Consolidated Statutes. (54 V. c. 16, s. 112.)

127. The Lieutenant-Governor-in-Council may at any time, by proclamation, as in this Chapter provided, declare a gold district, which shall contain an area or areas, under license or lease, for the purpose of searching for or working mines and minerals other than gold, or gold and silver; and in such case the areas under such license or lease shall, notwithstanding such license or lease, become subject to all the provisions of this Chapter which relate specially to all gold districts and gold and silver mines, under such regulations as the Lieutenant-Governor-in-Council shall make. (54 V. c. 16, s. 113.)

128. The Lieutenant-Governor-in-Council is authorized to make rules and regulations relative to gold districts, and gold or gold and silver mines, and mines other than gold or gold and silver mines, and licensing and leasing the same, and to the pumping, draining, ventilation, working, management, care, possession and disposal of the same, and to all other matters, connected with the same; and to make such rules and regulations general, or applicable only to particular districts or localities, as may be deemed best; and all such rules and regulations, and any amendments thereof, when published in the Royal Gazette, shall have the force of law until annulled by the Lieutenant-Governor-in-Council; provided such rules and regulations shall not be repugnant to the laws of the Province or the provisions of this Chapter and such rules and regulations may in like manner be altered, modified or cancelled as circumstances shall require. (54 V. c. 16, s. 114, am.)

129. The forms to be used under this Chapter may be prescribed by the Lieutenant-Governor-in-Council from time to time. (54 V. c. 16, s. 115, am.)

130. Any lessee or licensee of mining areas lying beneath the waters of the sea, may make, or cause to be made, tunnels from the adjacent land above high water mark under the water to such mining areas, doing as little damage as possible to the owners or lessees of the land in which such tunnel shall be made, and the intervening land covered with water, and the mines therein contained. (54 V. c. 16, s. 116.)

131. The damages of such tunnelling shall be agreed upon, determined, settled and paid, as directed in this Chapter from section 16 to section 24, inclusive, and also section 97. (54 V. c. 16, s. 117.)

132. If the lessee or licensee of such mining areas can not agree with the owner or owners of the land, or the lessee or licensee of the mining areas through which it is necessary to drive such tunnel, the Surveyor-General, subject to the approval of the Lieutenant-Governor-in-Council shall determine where such tunnels shall be made or commenced, the number of such tunnels, the size, width and depth thereof, the quantity of land to be taken and occupied for the same, and the course and direction which such tunnels are to take through the intervening lands covered with water, and the mines therein contained, and he shall cause a plan thereof to be made and filed in the office of the registrar of deeds for the county where the lands so taken for the commencement of the tunnels shall be situated. (54 V. c. 16, s. 118.)

NOTE: The following subsection was added to the Mining Act by 2 Geo. V, Chap. 35, Sec. 1:

1. Where any mineral shall be situate under or in the bed of any stream or lake and for the efficient working of such mineral it shall be necessary to divert the water of such stream or drain any such lake, it shall be lawful for the Lieutenant-Governor-in-Council to permit the same to be done, subject to such regulations or alternative provision for the benefit of any person who may have been entitled to the use of the water of such stream or lake in its natural state. (2 Geo. V, Chap. 35, Sec. 1.)

133. Leases of mining areas shall be made in duplicate; and such leases shall be registered in the Crown Land Office; one duplicate shall be issued to the lessee, and the other shall be filed in the Crown Land Office. (54 V. c. 16, s. 119, am.)

134. A certificate of such registry, with the day and year thereof, shall be endorsed on the duplicate delivered to the lessee. (54 V. c. 16, s. 120.)

135. In case of a lease or license where there are more than one lessee, a declaration in duplicate may be made and signed under seal by all the lessees, or their heirs or assigns, stating the proportion owned by each lessee, and such declaration shall be duly proved on oath and registered in the Crown Land Office. (54 V. c. 16, s. 121.)

136. All transfers of any interest in mining leases hereafter to be made, shall be registered as aforesaid, and a certificate of such registry shall be endorsed on every transfer, as in the case of mining leases; and such registry and certificate shall be conclusive evidence of the transfer of such mining interest. (54 V. c. 16, s. 122.)

137. The forms of declaration and a transfer for the purposes of this Chapter shall be as in forms (B) and (C), respectively. (54 V. c. 16, s. 123.)

138. Every company now or hereafter incorporated under any Act of this Legislature, or by any other competent authority, holding or working mines under this chapter, shall file a copy of their charter or Act of incorporation and by-laws or regulations in the Crown Land Office, before any such company shall commence work, together with a list of the officers of such company, and all changes of officers made shall also be certified to the Crown Land Office; and until such certificate is filed no such new official need be recognized by the Surveyor-General as an official of any such company. (54 V. c. 16, s. 124.)

139. (1) A description of all mortgages, bills of sale, attachments, judgments, transfers and documents of title of any kind (except licenses) relating to or in any way affecting the title of gold, or gold and silver, coal or other mines, shall be recorded according to schedule (D) in the Crown Land Office; and all licenses and a description of all mortgages, bills of sale, attachments, judgments, transfers, and documents, of title of any kind affecting such licenses, shall be registered in the book of application for mining rights in the Crown Land Office in the same manner as such licenses and descriptions are now registered; provided that such mortgages, bills of sale, attachments, judgments, transfers, or documents of title, shall proceed from or be charged against the parties who may appear upon the registry to be the lessees or licensees of such gold, or gold and silver, coal or other mines, so to be transferred or to be encumbered; and any such mortgage, bill of sale, attachment, judgment, transfer or document of title shall be void as against any subsequent bona fide mortgage, bill of sale, attachment, judgment, transfer or document of title which shall be previously registered. (54 V. c. 16, s. 125.)

(2) The Surveyor-General shall prescribe the fees payable in respect to each registry, and no person applying for any such registry shall be entitled thereto until such fees are first paid by him to the Surveyor-General.

140. A duplicate or true copy certified by a notary under his seal, of every transfer, mortgage or other conveyance, registered as above, shall be filed in the Crown Land Office before a certificate of registry is given. (54 V. c. 16, s. 126.)

141. If the applicant for a mining lease shall not execute such lease and file it in the Crown Land Office for execution and registry by the Surveyor-General within one year from the time of his application the areas shall be considered

vacant, and applications for a lease or license may be received. (54 V. c. 16, s. 127.)

142. The Surveyor General shall have power to cause witnesses to be brought before him in all contested cases or matters which he has power to investigate and decide, to be examined under oath, which oath the Surveyor-General is hereby empowered to administer, and like powers are hereby conferred on his deputy in all contested cases and matters before him which he has power to investigate and decide; and the Surveyor-General and deputy shall have power to take affidavits under oath, and to administer the oath in all such cases, and to administer oaths in all cases where affidavits are required by this Chapter, except where such oath is required to be administered by a Commissioner of the Supreme Court. The Surveyor-General, or any Deputy Surveyor-General, shall not receive any application for license or lease of any mines or mining areas, the right to a license or lease of which is at the time of such application in dispute before the Surveyor-General or Deputy, or any court of appeal. (54 V. c. 16, s. 128.)

143. Where royalties are due and owing to the Crown, or where rentals are in arrear and unpaid, the Lieutenant-Governor-in-Council shall have power to order the Minister of Lands and Mines to issue a warrant under his hand and seal of office, directed to the Sheriff of the county where the mine in respect of which such royalties are due or such rentals are in arrear and unpaid, is situated, requiring such Sheriff, immediately on receipt thereof, to levy on the goods and chattels used in working and operating such mine; and if within the space of twenty days next after such levy such royalties so due, or such rentals in arrear and unpaid, are not paid to such Sheriff, to proceed to sell the same, or so much of said goods and chattels as shall be sufficient to pay such royalties and rentals and his fees, first having publicly advertised the same for the space of not less than ten days before such sale, and to make return of such warrant and pay over the sum of such royalties and rentals to the Minister of Lands and Mines within thirty days from the issuing thereof. Upon receipt of such order, the Minister of Lands and Mines shall issue such warrant and deliver the same to such Sheriff, who shall immediately execute the same, according to the exigencies thereof, and the Sheriff's fees on such execution shall be the same as for executing a writ of execution out of the Supreme Court in a civil suit. (5 Geo. V, c. 39, s. 4.)

144. Leases and licenses shall terminate on the recurrence of the day on which they bear date in the year of their termination, and after ten of the clock of the forenoon of the following day the areas may be leased or licensed anew; but nothing contained in this section shall prevent the renewal and extending of licenses and leases as hereinbefore provided. (54 V. c. 16, s. 130.)

145. If any lease or any share or interest therein become transmitted or transferred in consequence of the death, bankruptcy or insolvency of any lessee, or in consequence of the marriage of any female lessee, or by any means other than a transfer according to the preceding provisions of this Chapter, such transmission or transfer shall be authenticated by a declaration of the person to whom such lease, or share, or interest therein, has been transmitted or transferred, stating the circumstances of such transmission, or transfer, and describing the manner in which, and the person to whom such property has been transmitted or transferred; and such declaration shall be made before the Surveyor-General or Deputy Surveyor-General, or a justice of the peace. (54 V. c. 16, s. 131.)

146. If such transmission or transfer shall have taken place by virtue of the bankruptcy or insolvency of any lessee, such declaration shall be accompanied by such evidence as may, for the time being, be receivable in Courts of

Justice, as proof of the title of persons claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female lessee, such declaration shall be accompanied by a copy of the register of such marriage, or other legal evidence of the celebration thereof, and shall declare the identity of such female lessee, and if such transmission shall have taken place by virtue of any testamentary instrument or by intestacy, then such declaration shall be accompanied by the probate of the will, or the letters of administration or any copy thereof that may be legal evidence, or would be received in Courts of Justice as proof of such transmission. (54 V. c. 16, s. 132.)

147. The Surveyor General, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name of the person entitled to the lease, or any share or interest therein under such transmission or transfer, in the books of registry, as so entitled thereto. (54 V. c. 16, s. 133.)

148. The Lieutenant-Governor-in-Council is hereby authorized and empowered to name any head of Department in the Government to perform the duties and exercise the powers by this Chapter conferred upon the Surveyor-General, in case of the absence of the Surveyor-General, or of vacancy in the office, or for any other cause deemed by him sufficient therefor, and such other head of Department shall in performing any of the duties or exercising any of the powers conferred by this Chapter, be styled, "Acting Surveyor-General." (54 V. c. 16, s. 134.)

149. The Deputy Surveyor-General may act for any (and) instead of the Surveyor-General, or for and instead of the Acting Surveyor-General in any emergency, and the Lieutenant-Governor-in-Council is also hereby authorized to appoint a chief inspector, or county inspectors of mines, or such other officers as he may deem necessary for the due carrying out of the provisions of this Chapter, and such officers shall be paid such compensation for their services as may be fixed by the Lieutenant-Governor-in-Council. Payment to be made by warrant in the usual manner out of moneys received under this Chapter. (54 V. c. 16, s. 135.)

150. (1) The provisions of this Chapter shall be applicable to all mining leases, and the lessees under all mining leases, and their representatives and assigns, which have been issued prior to the going into operation of this Chapter, so far as such provisions are capable of being applied thereto. (54 V. c. 16, s. 136.)

(2) Notwithstanding sub-section (1) of this section and the preceding sections of this Chapter the provisions of 52 Victoria, Chapter 16, sections 1 to 10, shall continue in force and be applicable to all mining leases or licenses issued on or prior to the sixteenth day of April, A. D. 1891, and proceedings to declare such mining leases or licenses forfeited may be taken either under said 52 Victoria, Chapter 16, sections 3 to 10, or under this Chapter. The said sections 3 to 10 shall not apply to leases or licenses issued after the said sixteenth day of April, A. D. 1891.

(3) The provisions of this Chapter shall extend and apply to Chapter 31 of these Consolidated Statutes, Respecting the encouragement of the discovery and development of Oil and Natural Gas, in so far only as is consistent with the provisions of said Chapter.

151. Any of the powers by this Chapter conferred upon the Warden of a municipality may, in case the warden is an interested party, or there be no warden at the time, be exercised by a Judge of the County Court of the county in which the lands lie, or a Judge of the Supreme Court. (54 V. c. 16, s. 137.)

152. In respect of granted lands wherein the owner of such lands (or the assignee of such owner who has gone to expense in the purchase, as he believed, of mining rights or interests) has made explorations, or actually commenced mining operations before the passing of this Chapter, no lease or license shall be made under this Chapter to any person, other than such owner or assignee, until such owner or assignee has had notice of application having been made therefor, which notice may be sufficiently given by publication thereof by the Surveyor-General for thirty days in the Royal Gazette, or in such manner as the Surveyor-General shall direct and thereupon the Lieutenant-Governor-in-Council, shall examine into the matter, and take such action as, in his discretion, shall seem just, taking into account the circumstances of each case; provided, however, that any such owner or assignee shall be subject to the payment of all royalties, and to the other provisions of this Chapter, so far as the same are applicable to his case. (54 V. c. 16, s. 138.)

153. The Lieutenant-Governor-in-Council, upon being satisfied on the report of a mining engineer, geologist, or other competent person, that there is a reasonable probability of discovering valuable mineral deposits in any part of the Province, by boring, sinking shafts, or other method of exploration, may on the recommendation of the Surveyor-General, by order in Council, authorize the expenditure, out of the public moneys in the usual manner, of a sum not exceeding two thousand five hundred dollars in any one year, subject to such conditions as the Lieutenant-Governor-in-Council may prescribe, in aid of and for the purpose of prosecuting such boring, sinking of shafts, or other method of exploration, and the Surveyor-General's annual Departmental report shall contain a full statement of such explorations, if any, the expenditures thereof the data and information upon which his recommendation to the Lieutenant-Governor-in-Council was based and the results. (52 V. c. 16, s. 2.)

154. If the Lieutenant-Governor-in-Council shall deem it expedient, and in the interest of mineral development, and as tending to encourage the prospecting for minerals within the Province, he may authorize the Surveyor-General to purchase any suitable, proper, modern improved machinery and appliances for exploration and boring purposes, and to expend from time to time a sum or sums not exceeding in the whole eight thousand dollars (including any moneys already paid under the provisions of 59 Victoria, Chapter 27, section 1,) in appliances and machinery, the same to be paid for by warrant from the Receiver-General in the usual manner. Such machinery, when procured, shall be placed under the care, management and direction of a suitable person, experienced in the use of such machinery and the prosecuting of works in exploring for minerals, and may be allowed to be used by any persons, by arrangement with the Surveyor-General, upon his being reasonably satisfied that the locality in which the work of exploration and boring is proposed to be carried on gives probable evidence of the existence of minerals therein, such arrangement for the use of the said machinery being upon such terms and governed by such conditions as the Lieutenant-Governor may by order in Council prescribe; any costs, charges and expenses of carrying out the arrangements herein mentioned on the part of the Surveyor-General, to be a charge against the revenue of the Province and to be paid by warrant in the usual manner. (59 V. c. 27, s. 1; 3 Edw. VII, c. 35, s. 1.)

NOTE: The following sections were added by the Act of April 29, 1916, (6 Geo. V, Chap. 31):

1. Notwithstanding anything in the General Mining Act, or in any amendment thereof contained, or any law to the contrary, it shall be lawful for the licensee under a license to search, or a license to work, or a lessee under a

Mining Lease to enter upon any lands in the Province and search, dig, explore for, mine, and work minerals and carry on mining operations to the extent that may be contemplated by such license or lease, and to carry away minerals therefrom and market the same. Provided, however, that such licensee, or lessee, shall first give a bond to the King with two sureties to the satisfaction of the Minister of Lands and Mines and in such sum as the said Minister may designate or approve, conditioned for the payment to the owner, lessee or person interested in such lands, of all damages that may be agreed upon between the licensee or mining lessee and the owner, lessee, or person interested in the lands, or in case the parties can not agree upon the amount of such damages, then to pay such amount as may be awarded or assessed as hereinafter provided, by reason of such entry, searching, digging, exploring, mining, and working. No entry shall be permitted until such bond or security be given.

2. In case the parties are unable to agree upon the amount of damages at any time, the same shall be ascertained and assessed from time to time as may be required by three arbitrators, one to be appointed by each party and the said two arbitrators shall appoint a third.

3. The owner, lessee, or person interested in the lands, may at any time after the giving of the said Bond as aforesaid, make application to the Minister of Lands and Mines, on not less than six days' notice to the other party, to increase the amount of the security by the giving of a new and additional bond in such further or additional amount, as the Minister may deem sufficient.

4. On the hearing of such application, the parties may be heard in person or by Counsel, and evidence may be adduced *viva voce* or by affidavit or both, in the discretion of the Minister.

5. At any time before the hearing of the arbitration, the licensee, or lessee may in writing tender or declare his readiness to pay a certain sum as compensation for the lands taken and damages sustained. If such amount be not accepted and the sum awarded by the arbitrators is not greater than the amount offered, the costs of the arbitration, including the arbitrator's fees, shall be borne by the owner or person interested in the lands, and deducted from the compensation or damages awarded. In all other cases such costs shall be borne and paid by the licensee or lessee. The costs in all cases where the parties can not agree thereon, to be taxed by the County Court Judge of the County where the lands lie.

6. Any bond given under this Act may be entered into by the licensee or lessee together with two sureties, or may be executed by three persons, of whom the licensee or lessee need not be done; but in every case the same shall be to the satisfaction of the Minister.

7. Should the lands upon which the licensee or lessee desires to enter, be in a wooded district, the Minister of Lands and Mines may, in addition to the security hereinbefore required to be given, from time to time direct that such means and precautions shall be taken by the licensee or lessee for the protection of the forest from fire, in the vicinity of the lands described in the license or mining lease, as he may deem adequate. He may also order and direct that additional security shall be given for the payment of any damages, that may be caused by fire set or permitted to spread by the negligence of the said licensee or lessee, his servants or employees; or by reason of the non-compliance with the directions that may be given by the Minister for protection as aforesaid. Such last mentioned security shall be by bond entered into by three persons to the satisfaction of the Minister of whom the licensee may be one, and in such amount as the Minister shall approve or designate.

8. Nothing in this Act shall authorize the entry upon any lands, premises or property mentioned in Section 40 of the General Mining Act save as is in said section provided.

9. Any bond given under this Act may at the request of the owner, lessee or person interested in the lands entered upon, be assigned by the Minister of Lands and Mines to him, and he may bring an action thereon in his own name. If there are divers or conflicting interests, or claims, to the land, an action may be brought thereon in the name of the Minister for the time being, and the money recovered shall be held for the benefit of the persons who establish their claims thereto.

10. In lieu of any bond hereinbefore mentioned, the Minister of Lands and Mines may require a deposit of money as such security.

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DISCOVERY AND DEVELOPMENT—EXPLORATIONS—LICENSE OR LEASE—PIPE LINE.

CONSOLIDATED STATUTES 1903 (VOL. 1), P. 411.

TITLE VIII.

CHAPTER 31.

Respecting the encouragement of the discovery and development of oil and natural gas.

1. Where the following words occur in this Chapter, and in orders in Council, or regulations thereunder, they shall be construed in the manner as herein-after specified, unless a contrary intention appears:—

(1) The word “oil” shall mean and include all crude petroleum oil, and all coal and mineral oil existing or which may be found in its natural state within the Province under the surface of the earth.

(2) The words “natural gas” shall mean and include all natural gas existing, or which may be found in its natural state within the Province under the surface of the earth. (62 V. c. 9, sec. 1.)

2. In order to thoroughly explore and prospect a portion or portions of the Province which furnish strong indications of the existence of oil or natural gas, and if possible to demonstrate the existence within the Province of valuable deposits of such oil and natural gas, and to induce capitalists to venture and expend the amount necessary for that purpose, the Lieutenant-Governor-in-Council may grant a license to search for oil and natural gas within an area or areas in the Province, to be specified in the license, to a company of persons or body corporate, who shall be incorporated under the laws of this Province, for the purpose of prospecting for and mining oil and natural gas, and who shall satisfy the Lieutenant-Governor-in-Council of their ability and bona fides in the matter. But no more than one such license to search shall be granted and in force at the same time, covering the same area or part of an area; nor shall any such license be granted while any lease specified by section 9 hereof is in force, except always such licenses and leases as may be issued under the provisions of The General Mining Act, Chapter 30 of these Consolidated Statutes and amending Acts. (62 V. c. 9, s. 5, am.)

3. While the license to search or lease authorized by this Chapter giving the licensee or lessee exclusive rights to search for and mine oil and natural gas within a specified area, is outstanding, no other license to search or lease

heretofore or hereafter granted under the said The General Mining Act, or any Act in Amendment thereof, shall authorize the licensee or lessee to explore for, bore for, or mine oil or natural gas within the area in which such exclusive rights are given, as herein authorized and provided. (62 V. c. 9, s. 6.)

4. The license provided for in section 2 shall be granted for a period not exceeding five years from the date of issue of the same, and shall specify and define the area or areas to which such license shall apply and extend, and during the continuance of such license so long as the licensee shall comply with all the requirements and conditions specified therein, or attached thereto by law, the licensee shall have, within the area so licensed, the exclusive right to search and prospect for, mine, and development oil and natural gas. (62 V. c. 9, s. 7.)

5. The licensee shall, bona fide, within two years from the date of the license, expend in boring for oil and natural gas not less than twenty thousand dollars, and not less than twenty thousand dollars each and every year after said first two years, and not less than one hundred thousand dollars in the whole within five years from the date of such license. (62 V. c. 9, s. 8.)

6. The licensee shall furnish the Surveyor-General, from time to time, as and when required so to do, with evidence to his satisfaction that such expenditure has been so made within the times above required and provided, and upon any failure or default on the part of the licensee to make such expenditure within the times above provided, or to furnish such evidence that such expenditure has been so made, the Surveyor-General, after notice to the licensee of not less than three months, may declare such license forfeited, and the order of the Surveyor-General declaring such license forfeited, published in the Royal Gazette, shall forfeit such license, and be evidence in all Courts that such license is forfeited. (62 V. c. 9, s. 9.)

7. When any well of oil or natural gas is bored or opened up, and oil or natural gas is found, such well shall be operated and continue to be operated to its full capacity so long as and whenever it can, in the opinion of the Lieutenant-Governor-in-Council, be operated at a profit of not less than six per centum per annum on the cost of operating the same and disposing of the products thereof. (62 V. c. 9, s. 11.)

8. (1) The licensee may, at any time during the continuance of term of the license, apply to the Lieutenant-Governor-in-Council for a lease as herein provided, and in case the licensee shall have discovered and opened up at least one well of oil or natural gas capable of being operated at such profit as aforesaid, and then being so operated at such profit as aforesaid the Lieutenant Governor-in-Council shall execute to the licensee a mining lease of an area not to exceed ten thousand square miles, to be selected by the licensee from the area covered by the license to search, and to be by the licensee designated to the Lieutenant-Governor-in-Council in the petition for lease by metes and bounds. Such lease shall be for a term not exceeding ninety-nine years, with a right of renewal for a further period of ninety-nine years, and contain a proviso or provisos for the forfeiture of the same, if and so soon as the lessee fail to bona fide continue to operate each well of oil or natural gas at any time discovered within said leased area whensoever and so long as the same can, in the opinion of the Lieutenant-Governor-in-Council, be operated at a profit of not less than six per cent. per annum, and shall also contain a proviso for forfeiture in case the royalty to the Crown be not punctually paid, or in case all the conditions of the lease and all the undertakings therein by the lessee, and all the requirements of this Chapter and of the laws of this Province, be not by the lessee faithfully observed and kept. (62 V. c. 9, s. 12.)

(2) Notwithstanding anything in sub-section one of this section, the Lieutenant-Governor-in-Council may from time to time, permit the licensee to select portion or portions of the ten thousand square miles mentioned therein, and grant to the licensee lease or leases for such portion or portions so selected until the whole area of ten thousand square miles shall be so selected, and leases issued therefor. (3 Edw. VII, c. 39, s. 2.)

(9) It shall be provided in such lease, and also in such license to search, that a royalty shall be paid to the Crown, the amount and terms of payment whereof shall be specified in such lease and license respectively, and said amount shall not be less than five per cent. of the output of oil and natural gas delivered at the well's mouth, or five per cent. of the commercial value thereof, at the option of the Lieutenant-Governor-in-Council, and such lease, and also such license to search shall be subject to such provisos and conditions as the Lieutenant-Governor-in-Council may see fit to require and place therein, or as may be specified and required by this Chapter, to protect and save harmless the owners of land in which searches or borings are made, or wells operated, and, except as in this Chapter otherwise provided, such protection shall be as near as possible, and, as the Lieutenant-Governor-in-Council may deem feasible and expedient, of like character to that provided in other cases by the said The General Mining Act, and Acts in amendment thereof. (62 V. c. 9, s. 13.)

10. The lessee, during each and every year of the said demised term, shall be bound bona fide and to the satisfaction of the Lieutenant-Governor-in-Council to continue to explore for oil and natural gas throughout the area in said leased demised, and to expend in boring for the same each year of said demised term a sum not less than twenty thousand dollars annually; provided always, however, that if at any time the lessee shall make it appear to the satisfaction of the Lieutenant-Governor-in-Council that there is no reasonable prospect of discovering oil or natural gas by so boring, then and in such case the Lieutenant-Governor-in-Council may, on such terms as to the lessee releasing to the Crown any portion of said area held under said lease, and the rights of the lessee therein, or otherwise, as to the Lieutenant-Governor-in-Council may seem right in the premises, relieve the lessee from the necessity of thereafter so expending in boring as aforesaid, the whole or such portion of said annual sum of twenty thousand dollars, as may seem to the Lieutenant-Governor-in-Council just and reasonable. The lessee may at any time abandon and release to the Crown any part of said demised area, and shall not thereafter be bound to prospect or develop such portion of the area so released. (62 V. c. 9, s. 14.)

11. If, in boring for oil or natural gas, any other mine or mineral or valuable substance or deposit is discovered, the same shall belong to the Crown, and the lessee shall be bound immediately to notify the Surveyor-General of each and every such discovery, and the lessee shall have no right or title therein or thereto, or any claim for compensation or otherwise by virtue of such discovery. (62 V. c. 9, s. 15.)

12. And whereas, portions of the Province furnishing indications that they contain deposits of oil and natural gas, also furnish indications of the existence of valuable deposits of salt of a very superior character and of great value, and it is desirable that wherever borings be made an examination be had and a record furnished of the percentage of salt found in the water in such borings at the different depths therein, the lessee or licensee shall, when boring for oil or natural gas, be required at his own expense, from time to time, to make such examination of the character of the water found in such boring as shall supply full information as to the strength of any salt solution or deposit found in such boring, and shall furnish the Surveyor-General, free of charge, with such record from time to time as required. (62 V. c. 9, s. 17.)

13. Neither the granting of such license to search nor the execution of such lease, shall prevent the Lieutenant-Governor-in-Council, or any licensee or lessee of the Crown, or any persons having title or authority, from prospecting within said leased or licensed areas for mines, minerals or valuable deposits or from mining the same other than and except oil and natural gas. Provided, however, such prospecting and mining shall be carried on in such manner as shall not unnecessarily interfere with, obstruct or injure the work, wells or operations of the lessee or licensee under this Chapter. (62 V. c. 9, s. 17.)

14. The licensee or the lessee to whom a license or lease shall have been executed under the provisions of section 8 of this Chapter may, at any time during the continuance of any such license or lease, petition the Lieutenant-Governor-in-Council for authority to construct and maintain lines of pipe and tanks for conveying of oil from any well or wells to any place or places within the Province, and such petition shall be accompanied by plans and surveys of the lands through which such pipe line is to pass, together with a map or plan thereof, showing accurately its courses and direction, and the lands intended to be passed over and taken therefor, so far as then ascertained, and shall also be accompanied by a general description of said lands and the names of the owners and occupiers thereof, so far as the same can be ascertained, and everything necessary for the right understanding of such maps or plans. (62 V. c. 9, s. 18; 3 Edw. VII, c. 39, s. 3.)

15. The Lieutenant-Governor-in-Council may thereupon by order in council, grant permission to the said licensee or the said lessee to construct and operate such lines of pipe and tanks subject to the provisions following that is to say: For the value of lands taken or used for the purposes of such lines of pipe or tanks, and for all damages to lands injuriously affected by the construction or operation of the same compensation shall be made to the owners and occupiers of and to all persons interested in lands so taken or injuriously affected, and the amount of such compensation shall be ascertained and determined and paid in like manner, as near as may be, as is provided in the case of railways under the provisions of The New Brunswick Railway Act, Chapter 91 of these Consolidated Statutes and all the provisions of the said Chapter, with reference to acquiring lands for the right of way or purposes of a railway, and as to the plans and surveys to be furnished, and the nature and character of the same, and where they shall be filed, and the persons who shall have access to the same, and as to the character and extent of the lands to be taken and the mode of determining the compensation to be paid therefor, in case a dispute between the company and the owners, or persons interested in said lands, and as to how and when the same shall be paid, shall apply and extend to the licensee or the said lessee, and the construction of such pipe line or lines in like manner as if the said pipe line or lines were a railway which the said licensee or the said lessee was authorized to construct under the provisions of the said The New Brunswick Railway Act, and amending Acts, over the same lands as those over which the said pipe line is proposed to be constructed except that the lands which may be taken for the said pipe lines, without the consent of the owners of the said land, other than those necessary for pumping stations and storage stations, shall not exceed ten yards in width; and every such pipe line shall be so constructed as not to obstruct any public road or highway, or the public travel or traffic over such road and highway. (62 V. c. 9, s. 19; 3 Edw. VII, c. 39, s. 4.)

16. The licensee or the lessee may also, at any time and from time to time during the continuance of any such license or lease, and, in case there shall have been then opened up and in actual operation at least one well or oil, or natural

gas, operated at a profit of not less than six per cent. per annum, as aforesaid, apply to the Lieutenant-Governor-in-Council, by petition, for leave to construct a tramway, or railway, from any well or storage depot of the lessee, to any point of shipment or line of railway within the Province, and such petition shall be accompanied by plans and surveys the lands through which said tramway or railway is to pass, together with a map or plan thereof, showing accurately its courses and direction, and the lands intended to be passed over and taken therefor, so far as then ascertained, and shall also be accompanied by a general description of the said lands and the names of the owners and occupiers thereof, and everything so far as can be ascertained for the right understanding of such map or plan. (62 V. c. 9, s. 20; 3 Edw. VII, c. 39, s. 5.)

17. The Lieutenant-Governor-in-Council, if satisfied that the construction of such tramway or railway will be in the public interest, and is reasonably required for the successful conduct of the business of the licensee or the lessee in developing his undertaking of boring for and disposing of oil and natural gas, may by order in council, authorize the construction of such tramway or railway, and thereupon the licensee or the lessee shall and may construct such lines of tramway or railway subject to all the conditions and restrictions, and with all the powers and privileges required and provided by the said The New Brunswick Railway Act, and Acts in amendment thereof, in like manner and to the same extent as if said licensee or the lessee had been authorized by special Act to construct such tramway or line of railway for the purpose of enabling the company to transport their products and supplies, and in aid of their said business of boring for and developing of oil and natural gas, and for no other purpose, and subject to the conditions and requirements of the said The New Brunswick Railway Act. (62 V. c. 9, s. 21; 3 Edw. VII, c. 39, s. 6.)

18. All the provisions of the said The General Mining Act, and Acts in amendment thereof, providing for or restricting the right of a lessee or licensee under said Act to enter upon any lands or property and providing for the protection of the owners of and other persons interested in all lands so entered upon or taken and for their compensation, and the manner of determining such compensation, and as to whom and how the same shall be paid, and providing for the protection of any public or private interest, shall apply and extend to the lessee or licensee holding a license to search under section 2, or a lease under section 8 of this Chapter. (62 V. c. 9, s. 22.)

19. Such license to search, and such lease or leases shall each be executed on the part of the Crown by the Surveyor-General under his hand and seal, and on the part of the licensee or lessee under his hand and seal, and shall be filed and kept on file in the office of the Surveyor-General. A duplicate thereof, or a copy thereof, certified by the Surveyor-General may be executed and delivered to the licensee or lessee at the cost and request of the latter, and shall in all courts have the like effect and force as the original so on file in the office of the Surveyor-General. (62 V. c. 9, s. 23; 3 Edw. VII, c. 39, s. 7.)

ONTARIO.

CONTENTS.

	Page.
Gas.....	417
Regulation of price.....	417
Consumption and distribution—Regulations generally.....	418
Oil.....	419
Warehouse receipts—Regulations.....	419
Oil and gas.....	420
Prospecting permit—Staking claim.....	420
Boring permit—Staking claim.....	423
Production tax—Procedure.....	425
Reduction of tax—Remittance.....	430
Tax on oil and gas reserved in land.....	431
Oil and gas wells.....	432
Plugging—Waste prevented.....	432
Pipe lines.....	434
Municipal corporations—Grant of franchise.....	434

GAS.

REGULATION OF PRICE.

CONSUMPTION AND DISTRIBUTION—REGULATIONS GENERALLY.

REGULATION OF PRICE.

STATUTES 1908 (8 EDW. VII), 352, P. 363.

APRIL 14, 1908.

CHAPTER 33.

THE STATUTE LAW AMENDMENT ACT, 1908.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

* * * * *

44. The Act respecting Companies for Supplying Steam, Heat, Electricity, or Natural Gas for Heat, Light or Power is amended by adding thereto the following section:—

5. Where a natural gas company or natural gas transmitting company produces or transmits gas for export, the price or charge at which the same shall be supplied to municipalities, incorporated companies and persons shall be subject to regulation by the Lieutenant-Governor in Council. (62 V. (2), chap. 8, Sec. 4.)

CONSUMPTION AND DISTRIBUTION—REGULATIONS GENERALLY.

STATUTES 1918, P. 60.
(8 GEO. V.)

FEBRUARY 6, 1918.

CHAPTER 12.

AN ACT respecting natural gas.

WHEREAS, complaints have been made by and on behalf of numerous inhabitants in that part of Western Ontario where natural gas is in general use as a fuel, stating that much distress and suffering have been caused at various times. * * *

THEREFORE, HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be known as The Natural Gas Act, 1918.

2. In this Act,

(a) "Board" shall mean the Ontario Railway and Municipal Board.

3. (1). Notwithstanding the provisions of any general or special act or letters-patent, or any agreement, franchise, bargain, or arrangement whatsoever and by and between whomsoever made, or any other matter or thing, the Board shall control and regulate the production, transmission, distribution, sale and disposal and consumption of all natural gas produced in Ontario, and for that purpose shall have and may exercise the powers and duties hereinafter set forth.

(2). It shall be a good and sufficient defence to any action or other proceeding brought or taken against any person producing, transmitting, distributing or selling natural gas that such person so far as regards the act or omission which is the subject of such action or other proceeding has conducted the production, transmission, distribution or sale of natural gas in accordance with the order or direction of the Board.

4. The Board shall make such orders and give such direction from time to time as it may deem proper for the due conservation of the supply of natural gas in Ontario and its distribution in such localities and to such classes of consumers, for such periods and at such times as may best serve in the opinion of the Board to prevent suffering or inconvenience to the general public and particularly to the users and consumers of natural gas for domestic purposes.

5. The Board upon its own motion or upon application made to it may make an order for,

(a) the closing and cutting off of the supply of natural gas to any corporation, company or individual;

(b) the construction or alteration of any works, machinery, plant, or appliance used in the production, transmission, supply, distribution or consumption of natural gas;

(c) the cutting off of the supply to consumers generally or to any class of consumers in any locality for such periods or at such times as the Board may deem proper;

(d) the construction or alteration of buildings, erections, machinery, pipe lines, meters, or any other matters or things as the Board may deem proper;

(e) the division of any field of production or distribution between two or more corporations, companies, or individuals engaged in the business of producing or distributing natural gas;

(f) the closing down and stopping up of any natural gas well or any works for the production, transmission, distribution, or supply of natural gas;

(g) the appointment of such inspectors, officers, agents, servants or workmen as may be necessary to carry out and enforce any order of the Board made under this Act;

(h) fixing the rates to be charged to distributors and consumers or to any class of consumers and in any locality for natural gas supplied to such distributors or consumers;

(i) generally for the better carrying out of the objects and purposes set forth in sections 3 and 4 of this act.

6. The Lieutenant-Governor in Council may make regulations,—

(a) extending and enlarging the powers of the Board with respect to the matters mentioned in sections 3 and 4;

(b) for the better enforcement of any order or direction of the Board;

(c) conferring upon the Board such powers and duties with respect to the prohibiting, limiting, controlling and regulating the production, distribution, supply and consumption or use of natural gas in Ontario as the Lieutenant-Governor may deem expedient.

7. (1) Every person who,—

(a) Refuses or neglects to obey any order or direction of the Board made or purporting to be made under the authority of this Act after notice of such order or direction or the promulgation thereof in The Ontario Gazette; or

(b) Hinders, delays or obstructs the Board, its officers, agents, servants or workmen in carrying out the provisions of this Act or any order or direction of the Board or any regulations made thereunder; or

(c) Wastes or causes to be wasted any product of any natural gas well or work for the production, distribution or supply of natural gas, or

(d) Tampers or interferes with any meter, stock-cock, cut-off, or any other matter or thing, placed or used or installed by the Board, its officers, agents, servants or workmen,

shall incur a penalty not exceeding \$1,000 and not less than \$100 and shall in default of the payment thereof be imprisoned for a period not exceeding six months.

(2) The Ontario Summary Convictions Act shall apply to prosecutions under subsection 1.

8. In addition to any other remedy, any order or direction of the Board whether general or special may be enforced against any corporation, company, or individual in the same manner as any other order of the Board may be under The Ontario Railway and Municipal Board Act or The Ontario Railway Act, and this shall include the power, to take, possess, use and operate any natural gas well or works for the production of natural gas, transmission lines, mains, pipes or meters and any or all buildings, erections, structures, machinery or apparatus necessary for or connected with the use and operation of such works and wells and the distribution and supply of natural gas therefrom.

9. The Board in making any order under this Act may include in the order or direction such terms and conditions as the Board may deem just.

OIL.

WAREHOUSE RECEIPTS—REGULATIONS.

STATUTES 1910 (10 EDW. VII), 546.

MARCH 19, 1910.

CHAPTER 63.

AN ACT to amend the mercantile law.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

* * * * *

14. (1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by any incorporated company authorized

to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

(2) On the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate so endorsed or transferred, the company shall be freed from all further liability in respect thereof, and the endorsee or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. (R. S. O. 1897, chap. 145, Sec. 12.)

15. Chapter 145 of the Revised Statutes, 1897, and all amendments thereto are repealed.

OIL AND GAS.

PROSPECTING PERMIT—STAKING CLAIM.

BORING PERMIT—STAKING CLAIM.

PRODUCTION TAX—PROCEDURE.

REDUCTION OF TAX—REMITTANCE.

TAX ON OIL AND GAS RESERVED IN LAND.

PROSPECTING PERMIT—STAKING CLAIM.

STATUTES 1906 (6 EDW. VII), 25, P. 73.

MAY 14, 1906.

CHAPTER 11.

AN ACT respecting mines.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

* * * * *

PROSPECTING PERMITS.

181. (1) Any licensee desirous of acquiring a permit to prospect for petroleum, natural gas, coal or salt, upon any Crown lands not withdrawn from exploration or sale or upon any lands, the mines, minerals or mining rights of which have been reserved to the Crown in the patent, sale, lease, or location, shall before going into occupation of such lands, stake out the same by planting a post at each corner thereof, and writing or marking on No. 1 post, at the northeast corner of the said area, the words "Prospecting Permit applied for," the name of the licensee staking out the said lands and the number of his license, also the name of the licensee in whose name or on whose behalf

It is proposed to make application for such permit, the number of his license, the date on which the said lands are staked out, a statement of the area intended to be covered by the Permit; and shall within fifteen days thereafter make application in duplicate for the said Permit to the Mining Recorder of the Mining Division within which the lands are situate, which application may be according to Form No. 22 in the appendix hereto. One copy of such application shall at once be posted up in the Recorder's office, and one copy forwarded to the Minister. The application shall be verified by affidavit which may be according to Form No. 23 in the appendix hereto. If the area so staked out is more than ten miles from the office of the Mining Recorder, one day additional for every additional ten miles or fraction thereof shall be allowed for making said application.

(2) After the expiry of thirty days from the making of such application to the Mining Recorder, and not later than ninety days thereafter, the licensee shall make application to the Minister for a Permit to prospect said lands for petroleum, natural gas, coal or salt, or any one or more of the said substances, and shall accompany his application with a plan or diagram showing as nearly as possible, the situation of the lands and shall give the best practicable written description of the same, and pay in a fee of \$100. If the lands are situate in surveyed territory the applicant shall describe the lands by the numbers of the lots and concessions. Upon completion of the application, if no good reason appears to the contrary, the Minister may grant the Permit, which shall be called a "Prospecting Permit," and shall be for one year only. Such permit may be according to Form No. 24 in the appendix hereto.

(3) Every tract of land for which a Prospecting Permit is applied, if in unsurveyed territory, shall be rectangular in form and shall not exceed six hundred and forty acres in extent, and the boundary lines thereof shall be due north and south and due east and west, astronomically. If in surveyed territory such tract may consist of any number of lots, not containing in all more than six hundred and forty acres, provided they are contiguous, and the whole tract need not be rectangular in form.

(4) A Prospecting Permit shall require the holder thereof to enter upon the tract of land described therein within two months of the date thereof, and to expend thereon in actual boring, sinking, driving or otherwise searching for petroleum, natural gas, coal or salt, a sum not less than at the rate of two dollars per acre during the term of the permit, which expenditure shall not include any moneys laid out for houses, roads or other like improvements. Upon proof being filed with the Minister that the said expenditure has been made and all other terms and conditions of the permit duly complied with, the Minister may at the expiry thereof, grant a renewal of the same on payment of a fee of one hundred dollars, subject to like conditions as to expenditure in actual boring or otherwise searching for the substances aforesaid, or any one or more of them. Where an application for a prospecting permit includes any lands, the surface rights of which have been patented, sold, leased or located, and the mines, minerals or mining rights of which have been reserved to the Crown, such permit shall not issue until the applicant has filed evidence to the satisfaction of the Minister, that he has arranged with the owner or owners of the said surface rights for compensation for injury or damage thereto, or failing such arrangement that such compensation has been ascertained and paid or secured in manner provided in section 119 hereof.

(5) Upon the holder of a prospecting permit, proving to the satisfaction of the Minister, that he has discovered petroleum, natural gas, coal or salt, or

any one or more of the said substances in commercial quantities upon the lands included therein, the Minister may lease the said lands or any portion of them to the holder of the said permit or his assignee for a term of ten years at an annual rental of one dollar per acre, payable in advance, and subject to the expenditure of not less than two dollars per acre per annum for raising or obtaining petroleum, natural gas, coal or salt, or any one or more of the said substances therefrom, or in actual bona fide operations or works undertaken or made for the purpose of raising or obtaining the same. The lessee shall have the right of renewal of such lease at the expiry of the first term of ten years at the same rental, and at the expiry of the second term of ten years for another term of twenty years at such renewal rental as may then be agreed upon or provided by law or regulation.

6) Every such lease shall contain such other conditions stipulations and provisos as the Lieutenant-Governor in Council may order and prescribe, and shall be forfeited and void if the rental payable thereunder be not paid when due, or upon failure to expend the money required therein to be laid out in bona fide operations or work for the purpose of raising or obtaining the aforementioned substances, or any one or more of them, or upon failure to comply with any of the said terms and conditions of such lease. Provided that a forfeiture for failure to pay rent when due may be defeated by paying up all arrears of rent within ninety days after the same became due and payable.

(7) The right conferred by any such lease upon the lessee shall be to enter upon the lands mentioned or described therein, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove, petroleum, natural gas, coal and salt, or any one or more of such substances. All other minerals or mineral substances of value shall be reserved to the Crown, and it shall be lawful for the holder of a Miner's License at all times to go upon the said lands and prospect and search for valuable minerals and to stake out mining claims thereon, and obtain patents therefor, upon compensating the said lessee for injury or damage to the surface rights of the said lands; nevertheless, from such patents, the petroleum, natural gas, coal and salt in, on or under the said lands, shall be reserved.

(8) No such lease shall issue for lands in unsurveyed territory unless and until a plan in triplicate by an Ontario Land Surveyor, field notes and description, shall be filed in the Department, showing a survey in conformity with this Act, and to the satisfaction of the Minister.

(9) The holder of a prospecting permit or of a lease for petroleum, natural gas, coal or salt, shall not be entitled to the timber upon the lands included in such permit or lease but if the same are not covered by timber license, such holder may cut and use such timber or trees as may be necessary for prospecting and working the said lands, upon application to the Minister therefor, and upon payment of such rates as he may fix.

(10) The holder of a prospecting permit may, subject to the consent of the Minister endorsed thereon, transfer by assignment in the Form No. 25 in the appendix hereto all his rights in the said Permit or the lands included therein, and upon said consent being given the licensee to whom the same is transferred shall thereupon be entitled to the unexpired term of the said permit, with any right of renewal thereof hereby authorized.

BORING PERMIT—STAKING CLAIM.

STATUTES 1908 (8 EDW. VII), 208, P. 251.

APRIL 14, 1908.

CHAPTER 21.

AN ACT to consolidate and amend The Mines Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as The Mining Act of Ontario.

* * * * *

PART V. PETROLEUM, GAS, COAL, AND SALT.

119. (1) A licensee may obtain from the Minister boring permit (Form 28), granting him the exclusive right for a period of one year to prospect for petroleum, natural gas, coal, or salt upon an area of land open for prospecting and staking out in those portions of the Province lying north and west of the River Mattawan, Lake Nipissing, and the French River, by:

(a) Staking out or having another licensee stake out on his behalf and in his name such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 54, and writing or placing upon each post the words "Boring permit applied for," with his name and the letter and number of his license, and where the staking out is done by another licensee also the name of such licensee and the letter and number of his license; the date of the staking out and a statement of the area to be included in the application;

(b) Furnishing to the Recorder an application in duplicate (Form 29), verified by an affidavit (Form 30), within fifteen days after the staking out;

(c) Forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a written description of the same, including, if the area is in surveyed territory, the number of the lots and concession or sections or quarter sections or other subdivisions, together with a fee of \$100; and

(d) Proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 104 for any injury or damage which is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by section 104.

(2) One duplicate of the application shall be forthwith posted up by the Recorder in his office and the other forwarded by him to the Minister.

(3) If the area staked out is more than ten miles from the office of the Recorder, one additional day for every additional ten miles or fraction thereof shall be allowed for furnishing the application to the Recorder.

(4) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed six hundred and forty acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory need not be rectangular in form, but may consist of any number of contiguous lots, quarter sections or subdivisions of a section not containing in all more than six hundred and forty acres.

(5) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum, natural gas, coal, or salt a sum amounting to not less than two dollars per acre.

(6) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the same for one year upon payment of a fee of \$100, and the renewal shall be subject to the like conditions as to expenditure and otherwise as the original permit.

(7) The holder of a boring permit may, with the consent of the Minister endorsed thereon, transfer (Form No. 31) all his rights in the permit or the lands included therein, and upon the consent being given the licensee to whom the permit is transferred shall thereupon be entitled to the unexpired term of the permit, with any right of renewal thereof. (6 Edw. VII, Chap. 11, Sec. 181, part; 7 Edw. VII, Chap. 13, Sec. 54, part.)

120. (1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum, natural gas, coal or salt, or any one or more of such substances in commercial quantities upon the lands included therein, the Minister may direct the issue to the holder of the permit of a lease of the lands or any portion of them for a term of ten years at an annual rental of one dollar per acre, payable in advance, and subject to the expenditure of not less than two dollars per acre per annum, in obtaining petroleum, natural gas, coal or salt, or any one or more of such substances therefrom, or in actual bona fide operations or works undertaken or made for the purpose of obtaining the same. The lessee shall have the right of renewal of such lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as may then be agreed upon or provided by statute or regulation.

(2) Every such lease shall contain such other conditions, stipulations and provisos as the Lieutenant-Governor in Council may prescribe, and shall be forfeited and void if the rental payable thereunder is not paid when due, or upon failure to expend the money required by subsection 1 to be laid out or upon failure to comply with any of the terms and conditions of the lease: Provided that relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the same became payable.

(3) The right conferred by any such lease upon the lessee shall be to enter upon the lands described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove, petroleum, natural gas, coal and salt, or any one or more of such substances. All other valuable minerals shall be reserved to the Crown, and any holder of a Miner's License may at all times go upon the said lands and prospect the same and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the lands at the time and in the manner provided in section 104, and may obtain a patent therefor, but such patent shall reserve the petroleum, natural gas, coal and salt, in, on, or under the said land.

(4) No such lease shall issue for lands in unsurveyed territory until a plan in triplicate made by an Ontario Land Surveyor, field notices and description, shall be filed in the Department, showing a survey in conformity with this Act, and to the satisfaction of the Minister.

(5) The holder of a Boring Permit or of a lease for petroleum, natural gas, coal or salt, shall not be entitled to the timber upon the lands included in such permit or lease but if the same are not covered by timber license and have not been located, sold or patented under The Public Lands Act, The Free Grants and Homesteads Act, or The Rainy River Fee Grants and Homesteads Act, may, with the permission of the Minister, and upon payment of such rates as may be fixed, cut and use such timber or trees as may be necessary for boring and working the said lands. (6 Edw. VII, Chap. 11, Sec. 181, part; 7 Edw. VII, Chap. 13, Sec. 54, part.)

PRODUCTION TAX—PROCEDURE.

STATUTES 1907 (7 EDW. VII), 88, P. 102.

APRIL 20, 1907.

CHAPTER 9.

AN ACT to supplement the revenues of the crown.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as "The Supplementary Revenue Act, 1907."

* * * * *

PART II.

NATURAL GAS.

25. All natural gas in the Province of Ontario shall be subject to a tax of two cents for every thousand feet flowing, drawn or pumped from or produced by the well:

NOTE: Section 25 of the original Act of April 20, 1907, was amended by Section 5 of the Act of April 14, 1908, (p. 196, Chap. 15), by striking out the last five lines of the section as numbered in the original act and substituting a proviso that is herein numbered one in brackets. Section 30 of the Act of March 19, 1910 (p. 160, Chap. 26), again amended the original Act of April 20, 1907, by adding thereto four subsections numbered 2, 3, 4, and 5. The entire section 25 as amended is as follows:

[1.] Provided that natural gas used for ordinary domestic purposes by the owner or occupier of the land on which the well producing the same is situate, or so used by two or more persons from a well jointly sunk by them for their own use on land owned by one or more of them, shall not be subject to such tax, except where the same exceeds five dollars in amount. (1908, Chap. 15, Sec. 5.)

(2). Where oil in paying quantities and natural gas in considerable volume are found in the same well, such gas shall not (subject to the provisions of subsection 3) be subject to the tax imposed by this Act.

(3). Upon the application of any person who alleges that there is a demand for such natural gas and has offered to purchase the supply and to compensate the owner for it and for any stoppage or diminution in the flow of oil consequent thereon, or who alleges that the escape of such natural gas should be shut off and that he is willing to compensate the owner therefor and for any stoppage or diminution in the flow of oil consequent thereon, and satisfies the Lieutenant-Governor in Council that the price which has been offered and compensation proposed are reasonable, the Lieutenant-Governor in Council may direct that if the owner within and at such times and upon such terms and conditions as the Lieutenant-Governor in Council shall prescribe does not supply such natural gas or allow the same to be taken by the applicant or shut

the same off, as the case may be, such natural gas shall be subject to the tax imposed by this Act, and if the owner does not comply with and conform to such direction to the satisfaction of the Lieutenant-Governor in Council such natural gas shall be subject to the tax accordingly.

(4). Upon the report of the Minister of Lands, Forests and Mines, that it appears to him that oil and natural gas exist in considerable quantities in any described locality, and that it is practicable to pump the oil therefrom without wasting the gas upon proper precautions being observed in drilling wells therein and operating same, the Lieutenant-Governor in Council may by proclamation set apart such locality or any part thereof, and may make regulations as to the methods to be adopted in drilling or sinking wells for oil or gas therein, and as to the precautions to be taken for preventing the waste of such gas, and thereafter no person shall drill or sink wells for oil or gas in the locality described in the proclamation, except under and subject to such regulations, and except upon notice in writing to the Minister of his intention to sink such wells.

(5). The Lieutenant-Governor in Council may at any time and from time to time revoke any such direction, proclamation or regulations.

26. (1). The owner, lessee, tenant, operator or occupier of every well shall keep a book continuously at some place within the Province of Ontario to be fixed by the Mine Assessor, in which shall be truly and faithfully recorded the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells operated by him.

(2). Such book shall for the year 1907 contain entries of all gas produced from and after the first day of January, 1907.

27. (1). The Mine Assessor shall have the right, at any and all times, and from time to time, as often as he shall think fit, to inspect all apparatus and machinery used in connection with the well, for the purpose of estimating or ascertaining the quantity of gas flowing, drawn or pumped from, or produced by any well.

(2) He shall also have the right at all times to examine said books and to call for and examine all books, records and memoranda, whether the same are required by law to be kept or not, kept by the owner, lessee, tenant, operator or occupier or any one or more of them, for the purpose of ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well; and the owner, lessee, tenant, operator, or occupier shall forthwith upon demand produce to the Mine Assessor all such books, records and memoranda for the purpose aforesaid.

28. If the Mine Assessor has reason to believe that the amount of gas produced by the well is not correctly shown by the book required to be kept, or by other books, records or memoranda as aforesaid, he may direct that a meter shall be affixed by the owner, lessee, tenant, occupier or operator of every well to every main pipe or duct through which all the gas flowing, drawn or pumped from the well or wells shall pass, so as to indicate the total gross quantity of gas flowing, drawn or pumped from, or produced by such well or wells.

29. (1) The meter may be inspected and tested, at any time or times, by or at the request of the Mine Assessor, as he shall think fit, for the purpose of ascertaining whether it correctly records the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, and in case he shall find that the same is not truly recording the quantity of gas flowing, drawn or pumped from, or produced by such well or wells, he may by a writing under his hand order that the same shall be forthwith put in order so as to furnish a true record, or he may order that a new meter shall forthwith be affixed to

the pipe or duct; and the owner, lessee, tenant, operator or occupier shall forthwith cause the order to be obeyed.

(2) If the Mine Assessor shall find that the meter is so placed that the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells does not pass through the meter, he may by a writing under his hand order that the same shall be so placed that the whole of the gas proceeding from the well or wells shall pass through the same, and the owner, lessee, tenant, occupier or operator shall forthwith cause the order to be obeyed.

30. Every owner, tenant, lessee, operator and occupier of a gas well or gas wells shall forthwith after the passing of this Act furnish to the Bureau of Mines a statement showing the wells operated by them or him, their location, the names and addresses of the owner, tenant, lessee, operator or occupier and the name and address of some person in the Province of Ontario to whom notices to be given under this Act may be sent and any order made by the Mine Assessor or any notice required to be given may be delivered to the owner, tenant, lessee, operator or occupier or to the person named for receiving notices, and if no such person is named, then to any manager, clerk, foreman, or other person in the employment of the owner, tenant, lessee, operator or occupier at the well or in charge of the same, or to any manager or clerk at the office of the owner, tenant, lessee, operator or occupier.

31. Every owner, lessee, tenant, occupier and operator of any well or wells to which this Act applies, and every manager or superintendent thereof shall furnish to the Minister in each year on the first day of August and the first day of February a true statement under oath of the total quantity of gas which flowed, was drawn, or pumped from, or produced by, such well or wells during the six months ending the thirtieth day of June and the thirty-first day of December respectively immediately preceding such dates and the first of such statements shall be made on the first day of August after the passing of this Act: provided that for the tax payable in the year 1907 each person aforesaid shall also on the said first day of August, 1907, furnish under oath a true statement of the total quantity of gas which flowed, was drawn or pumped from or produced by his well or wells during the year 1906.

32. (1). It shall be the duty of the Mine Assessor to examine the same, and ascertain whether or not the same is a true and correct statement of the quantity of gas which proceeded from the well or wells for such period, and if he finds the same to be correct, the quantity so stated shall be the quantity upon which the tax shall be computed for such period, and the Mine Assessor shall thereupon notify the owner, lessee, tenant, operator or occupier of the same.

(2) If the Mine Assessor shall be of opinion that the same is incorrect, he shall notify the person furnishing the statement thereof, and in what particular the same is deemed to be incorrect, and, if the owner, lessee, tenant, occupier or operator assents thereto, the statement may be amended and re-sworn to, and when so amended the quantity so stated shall be the quantity upon which the tax shall be computed for such period.

(3) If the owner, lessee, tenant, operator or occupier disputes the notice so given, the dispute shall be heard by the Mining Commissioner or the Ontario Railway and Municipal Board as the Minister shall direct, and such decision shall be final and conclusive, and the quantity so found shall be entered on the statement as the true quantity, and the tax for such period shall be computed thereon.

33. At the times specified in section 4 of this Act, the owner, lessee, tenant, operator or occupier shall pay to the Minister the full tax for the quantity of

gas shown in the statement as having proceeded from the well during the preceding year. If any dispute is pending on that date as to the true quantity, the tax shall nevertheless be paid on the amount shown in such statement, and as soon as such dispute shall have been determined by increasing the quantity, the remainder of the tax shall be forthwith paid, and if a less quantity shall be found to have proceeded from the well, the excess of the tax received shall be forthwith remitted to the person paying the tax.

NOTE: Section 34 of the original act was repealed by Section 6 of the Act of April 14, 1908, (p. 196, Chap. 15), and the following substituted therefor:

34. A municipal corporation shall not be required to pay any tax under Part II of this Act upon any gas actually used in Canada.

PART III.

PERCENTAGE, REMEDIES AND PENALTIES.

35. (1) In case any tax by this Act imposed is not paid at the time in this Act provided, ten per cent. shall forthwith be added thereto, and ten per cent. shall be added at the expiration of each year thereafter that the tax remains unpaid, and the said increased amounts shall for all purposes be and become the tax due and payable under this Act.

(2) It shall be the duty of the Deputy Minister of Mines or such other person as may be directed by the Minister to keep a careful record of all arrears of taxes under this Act, with the increased amounts from time to time entered thereon.

36. All taxes, double taxes, percentages, penalties and costs respectively payable under this Act shall be a special lien * * * upon the gas well or wells and the leases of and rights respecting the same and upon all machinery upon or connected with the * * * gas well or wells in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or shall accrue after the attaching of such lien, and its priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration and the same may be realized by action for sale of any or all property, leases and rights subject to such lien.

REMEDIES.

37. If any tax imposed by this Act is not paid when due the same, together with the added percentage, may be recovered from the owner, tenant, lessee, occupier or operator of the * * * well by an action at the suit of the Minister in any court of competent jurisdiction, together with costs of action.

NOTE: Section 38 of the original act was repealed by Section 7 of the Act of April 14, 1908 (p. 196, Chap. 15), and the following substituted:

38. (1) In addition to any other remedies for the recovery of any tax by this Act imposed, an injunction or order in the nature of injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as may seem necessary or expedient for securing payment of the tax, may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems endangered, be obtained in the High or County or District Court at the instance and in the name of the Minister, to prevent the removal, transportation of any * * * natural

gas, or to prevent * * * the production or waste of natural gas, or to provide for such operations or production upon such terms and conditions as may seem proper.

(2) In any case where natural gas is wasting in such quantity that the mine assessor deems that payment of any tax due or to become due thereon is endangered, he may give notice in writing to the owner or person in charge of the well or opening from which the gas is flowing, or may post up notice at or near such well or opening requiring stoppage of such waste, and if the waste is not effectively prevented within six days thereafter it shall be lawful for the mine assessor with the consent of the Minister forthwith to close up or direct and procure the closing up of such well or opening in such way as he may deem suitable and proper, and the mine assessor shall have all rights and powers necessary therefor, and the expense of such closing up as certified by the mine assessor shall, subject to appeal as in section 13 provided, be added to and be deemed part of the tax under this Act.

39. Any action which may be brought under this Act may be brought by the Minister as plaintiff, and it shall not be necessary to name the said Minister, and the action shall not abate by reason of a change in the person of said Minister or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed.

40. In case of default of payment of any taxes by this Act imposed, the same, together with all additions of percentage, double tax, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor, under warrant signed by the Minister or Deputy Minister of Mines, directed to the Sheriff of any county or counties or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant and all costs by sale of such goods or so much thereof as may be necessary to satisfy the amount directed to be levied by the said warrant.

PENALTIES.

* * * * *

44. If any order made under section 30 is not complied with within a reasonable time after it shall have been delivered, the owner, lessee, tenant, operator or occupier shall be liable to a penalty of \$10 for every day from the delivery of the order until the same shall have been complied with to be recovered with costs by action at the suit of the Minister in any court of competent jurisdiction as a debt due, and the owner, lessee, tenant, operator or occupier shall also be liable for double the tax computed upon the amount of gas estimated by the Mine Assessor to be passing through the pipe or duct during such period.

45. Subsection 11 of section 2, and section 3 and section 20 of the Act passed in the second session of the 62nd year of the reign of Her Late Majesty Queen Victoria, Chaptered 8, are repealed.

BONUSES.

46. * * *

Whereas it is desirable to encourage the use in Canada of natural gas produced in the Province of Ontario;

(1) If at the time when any tax upon * * * natural gas shall become payable the person liable to pay the same shall upon oath show to the satisfac-

tion of the Minister that * * * the quantity of natural gas used during the preceding year within the Dominion of Canada, and if such person shall not during the preceding year have infringed in any way the provisions of this Act or any of them, and is not in default or arrear in any payment, the Minister on being satisfied of the facts deposed to may remit to the person liable to pay the same * * * ninety per cent. of the tax payable on such quantity of natural gas as has been used in the Dominion of Canada in the preceding year.

(2) For the purpose of ascertaining whether the facts deposed to are true and correct, the Mine Assessor may make any examination or enquiry necessary to ascertain the correctness of the statement, and the owner, lessee, tenant, occupier or operator shall produce and show to the assessor all books, documents, records and memoranda kept by him or under his control, and in case of refusal, neglect or default to furnish any information asked for by the Mine Assessor, or to produce and show any books, documents, records or memoranda kept by him or in his power or under his control, he shall not be entitled to any remission.

REGULATIONS.

47. The Lieutenant-Governor in Council may from time to time make such rules and regulations as he deems necessary or expedient for carrying out the purposes of this Act, and such rules and regulations shall be published in the Ontario Gazette and shall, if made when the Legislative Assembly is sitting be laid upon the table of the House during the then session and if made at any other time shall be laid upon the table of the House within the first fifteen days of the session next after the date thereof.

REDUCTION OF TAX—REMITTANCE.

STATUTES 1899, 21, P. 27.

APRIL 1, 1899.

(62 VICTORIA 1ST & 2ND SESSIONS.)

CHAPTER 8.

AN ACT to supplement the Revenues of the Crown in the Province of Ontario.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

* * * * *

3. The Lieutenant-Governor in Council shall have power to remit or reduce taxation on any natural gas company where it is shown that it is a small domestic company organized and managed for the purpose of lighting and producing heat for mere domestic or local purposes within the county in which the gas is produced or where it is shewn that the producing power of the gas wells has become greatly lessened by use or time, or may reduce the amount of the foregoing taxes upon a company having paid up capital stock of less than \$5,000.

4. Where natural gas companies or natural gas transmitting companies produce or transmit gas for export, the price or charge at which the same shall be supplied to municipalities, companies and persons shall be subject to regulation by the Lieutenant-Governor in Council.

* * * * *

TAX ON OIL AND GAS RESERVED IN LAND.

STATUTES 1904 (4 EDW. VII), 104, P. 108.

APRIL 26, 1904.

CHAPTER 23.

AN ACT respecting Municipal Taxation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This act may be cited as "The Assessment Act." (R. S. O. 1897, c. 224, Sec. 1.)

* * * * *

7. "Land," "Real Property," and "Real Estate" shall include: * * *

(c) All mines, minerals, gas, oil, salt, quarries and fossils in and under land;

(d) All buildings, or any part of any building and all structures, machinery, and fixtures, erected, or placed upon, in, over, under or affixed to, land: * * *

* * * * *

10. (1) Irrespective of any assessment of land under this Act, every person occupying or using land in the municipality for the purpose of any business mentioned or described in this section shall be assessed for a sum to be called "Business Assessment" to be computed by reference to the assessed value of the land so occupied or used by him, as follows: * * *

(i) Every persons carrying on the business of * * * the transmission of oil or * * * gas * * * for the purposes of light, heat, or power, for a sum equal to 25 per cent. of the assessed value of the land (not being a highway, road, street, lane, or public place or water or private right of way), occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land.

* * * * *

NOTE: Section 36 of the original Act had no reference to oil or gas. The Act of April 20, 1907 (p. 319, Chap. 41), amended Section 36 by adding thereto the subsection as here set out and is as follows:

(4) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

STATUTES 1910 (10 EDW. VII), P. 694.

MARCH 19, 1910.

CHAPTER 88.

AN ACT to amend The Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

* * * * *

13. Section 36 of the said Act is repealed and the following substituted therefor:

36. * * *

(7) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

* * * * *

OIL AND GAS WELLS.

PLUGGING—WASTE PREVENTED.

STATUTES 1907 (7 EDW. VII), P. 331.

APRIL 20, 1907.

CHAPTER 47.

AN ACT to prevent the Wasting of Natural Gas and to provide for the Plugging of all Abandoned Wells.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Any person in possession, whether as owner, lessee, agent or manager of any well in which natural gas has been found, shall, unless such gas is utilized within two weeks from the completion of such well, in order to prevent such gas wasting by escape, confine the same in such well until such time as said gas is utilized; but this section shall not apply to any well while it is being operated as an oil well.

2. Whenever the owner or any person in possession of or having the control of any well in which gas has been found, fails to comply with the provisions of section 1 hereof within the time therein mentioned, the inspector appointed, as hereinafter provided, shall notify such person in writing to cause such gas to be so confined, and in case of the failure of such person to comply with such notice within ten days from the receipt thereof the inspector shall enter upon the lands upon which such well is situate and either by himself, his agents or employees shall cause such gas to be shut in and confined in such well.

3. Whenever any well which has been drilled for the purpose of exploring for oil or gas is afterwards abandoned it shall be the duty of the owner or the person in possession or control of such well, and of every person engaged or employed in removing the casing from or in plugging such well, or in any work constituting an abandonment of such well, to plug or plug and cement said well in such manner as to prevent any fresh or salt water or other injurious substances from entering the oil or gas bearing rock either from above or below such rock.

4. In every such case of abandonment, in addition to any other work necessary to the proper plugging of such well in compliance with the provisions of the next preceding section or of any regulations made by an inspector in the manner hereinafter provided, there shall be inserted in such well a round and slightly tapering plug of seasoned wood, not less than three feet in length and of such diameter as to enable it to be firmly driven and to fit tightly at the point where the casing, used for the purpose of shutting off water from such well, was made to rest.

5. Whenever any person notifies the inspector in writing that any property in which he is interested, situate in the vicinity of any such abandoned well, is injuriously affected by the failure to plug any such well as in the next preceding section provided, the inspector shall examine such abandoned well and ascertain whether it has been properly plugged according to the provisions of this Act, and in case the inspector determines that such well has not been properly plugged within the meaning of this Act he shall serve a notice on the owner thereof or upon any person having the control thereof, or upon any person who was engaged or employed in the work of removing the casing from, or in plugging such well, or in any work which constituted an abandonment of such well, or may serve such notice on all of said persons, which notice shall require such well to be plugged within ten days from the receipt of such notice, and shall specify the method and manner to be followed in the plugging

thereof, and unless within said ten days such well is plugged according to the directions contained in said notice, the inspector either by himself, his agents or employees shall plug or cause such well to be plugged properly, according to the provisions of this Act.

6. The expenses incidental or occasioned by the examination and plugging of any abandoned well or by the confining or shutting in of the gas from any well by the inspector under the provisions of this Act shall be paid to the inspector within ten days after notice is (in) writing of the completion of the work and the amount of such expenses shall have been given to the owner or other person having control of any such well, and upon failure to pay the same within such time the inspector shall give written notice of such failure to pay to the clerk of the municipality in which such well is situate and of the amount payable, and the council of such municipality shall thereupon pay to the inspector such expenses and the same shall be added to the taxes upon any property of the owner of such well, whether such well is situate upon such property or not, unless the mineral rights in the land upon which such well is situate have been severed or reserved from such land in which case the said expenses shall be added to any taxes chargeable against the reserved mineral rights in the land upon which such well is situate or against any other property of the owner of such reserved mineral rights, and such expenses shall be placed upon the collector's roll of the municipality and may be levied and collected in the same manner as other taxes are levied and collected.

7. Any person found guilty of a violation of sections 1, 3, 4, or 11 of this Act shall, upon summary conviction, incur a penalty of not less than \$10, and not more than \$100, in addition to any costs and expenses which he may be liable to pay under the provisions of section 6 of this Act; but this section shall not affect any right of action for damages for injuries arising out of any matter or thing for which this section provides a penalty.

8. An inspector or inspectors may be appointed by the Lieutenant-Governor from time to time to enforce the provisions of this Act, and assigned to such district or districts as he may deem proper. Each inspector shall give such security as the Minister of Lands, Forests and Mines shall require for the performance of his duties and the payment over of all moneys received by him.

9. It shall be the duty of every such inspector to see that the provisions of this Act are complied with, to keep a record of all work done, notices given, proceedings taken and moneys received or paid out by him under the provisions of this Act. He shall have authority to engage such agents or employees as he may deem necessary from time to time to carry out the requirements of this Act, and shall also be empowered from time to time and at all times by himself, his servants or employees to enter upon any lands or property upon which any wells are being or have been drilled, and to make such examinations, inspection and inquiries as may be necessary for carrying into effect the provisions of this Act; and no action or other proceeding shall lie against any such inspector, his agents or employees for any matter or thing done by him or them under the provisions of this Act.

10. Whenever the conditions of any locality make it desirable in the opinion of the inspector, he may, subject to the sanction of the Minister of Lands, Forests and Mines, make special regulations respecting the manner of plugging abandoned wells in such locality in addition to or in substitution for the method directed to be followed in this Act. Such regulations may be made to apply to the whole or any portion of the district to which such inspector is assigned, any may be promulgated in such manner as the said Minister shall direct, but shall not go into effect until after the lapse of six weeks from the first publication thereof.

11. The inspector may by notice in writing delivered to any person who had charge or control of the removal of casing or plugging or abandonment of any well, or who was engaged or employed in removing the casing from or in plugging any such well or in any work constituting an abandonment of such well, require such person within ten days from the receipt of such notice to furnish a statutory declaration respecting such abandoned well to said inspector; and such person shall within said ten days furnish said declaration to the inspector either by delivering the same into his hands or by mailing by registered post to his address; and such declaration shall identify such well and shall set out in detail the precise manner of and the material and tools used in plugging same; and any person violating the provisions of this section without sufficient cause or excuse shall incur the penalty provided by section 7 of this Act.

12. Chapters 276 and 277 of the Revised Statutes of Ontario, 1897, and amending Acts are hereby repealed.

PIPE LINES.

MUNICIPAL CORPORATIONS—GRANT OF FRANCHISE.

STATUTES 1912 (2 GEO. V), P. 505.

APRIL 16, 1912.

CHAPTER 42.

AN ACT respecting the Granting of Franchises by Municipal Councils.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as The Municipal Franchises Act.

2. In this Act

(a) "Franchises" shall include any right or privilege to which this Act applies;

(b) "Highway" shall include a street and a lane;

(c) "Public Utility" shall include waterworks, natural and other gas works. * * *

3. (1) The Council of a municipality shall not grant to any individual, firm or company, nor shall any individual, firm or company acquire the right to use or occupy any of the highways of the municipality or to construct or operate any railway, street railway or public utility in the municipality, or to supply to the corporation, or to the inhabitants of the municipality, or to any of them, gas, including natural gas, * * * unless or until a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted, has been assented to by the municipal electors, as provided by The Consolidated Municipal Act, 1903, with respect to by-laws requiring the assent of the electors.

5. Except where otherwise expressly provided, this Act shall not apply to a by-law

(a) Granting the right of passing through the municipality for the purpose of continuing a line, work or system which is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying natural gas or electric light or power in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed.

(b) Conferring the right to construct, use and operate works required for the transmission of oil, natural gas or water not intended for sale or use in the municipality. * * *

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QUEBEC.

CONTENTS.

	Page.
Natural gas companies-----	435
Privilege of supplying—Privilege granted-----	435
Oil and gas -----	436
Prospecting—License—Staking claims—Regulations-----	436

NATURAL GAS COMPANIES.

PRIVILEGE OF SUPPLYING—PRIVILEGE GRANTED.

REVISED STATUTES 1888, VOL. II, P. 380.

Sec. 1. Privilege granted.

4892. Upon the application of a company, incorporated under the joint stock companies' incorporation act, for the purpose of supplying light, heat and motive power, by means of natural gases which exist in various parts of the Province, it shall be lawful for the Lieutenant-Governor in Council to grant to such company, by supplementary letters-patent, the exclusive privilege of using such gases for a period of time not exceeding fifteen years. (49-50 V., ch. 74, sec. 1; 51-52 V., ch. 50, sec. 1.)

4893. For that purpose the said company must establish to the satisfaction of the Lieutenant-Governor in Council that it is a bona fide company, that it has a subscribed capital of at least two hundred and fifty thousand dollars, that instalments to the amount of ten thousand dollars have been paid, that its process of employing the said gases is the most effective and the most advantageous to secure the success of the undertaking, and that it is in a position to obtain all the appliances necessary for the success of the undertaking. (49-50 V, Ch. 74, sec. 1.)

4894. Such company must commence its works within three years after the issue of the letters-patent, and the industry must be in full operation to the satisfaction of the Lieutenant-Governor in Council, who, if such is not the case, may annul the company's privilege to grant it to any other company which shall ask for the same and shall for that purpose comply with the provisions of this section. (49-50 V., Ch. 65 (74), Sec. 2.)

Sec. 2. Powers.

4895. For the purposes of such enterprise, the company shall have power to dig and make excavations, whenever the same may be necessary, and in as many roads, streets, lanes, squares, public highways, within the limits of cities, towns, villages, parishes and townships in this Province, as may be deemed necessary, for laying the pipes to convey the gas intended for supplying light, heat and motive power, as the case may be, in the localities where such gas is to be consumed for the purposes aforesaid, without causing any unnecessary damage to the said roads, streets, lanes, squares, and public highways, and

taking as great care as possible to leave a free and uninterrupted passage in the said roads, streets, lanes, squares and public highways;

The company shall however have previously obtained the consent of the municipal authorities of the said cities, towns, villages, parishes and townships, within the limits of which it shall dig and make such excavations for the purposes aforesaid. (49-50 V., Ch. 74, Sec. 3).

4896. The company may also manufacture machinery, apparatus and instruments for collecting, selling and distributing the gases aforesaid for the above purposes of lighting or heating or for supplying motive power, and also build and carry on the works necessary for the same purposes. (49-50 V., Ch. 74, Sec. 4.)

4897. Nothing in this section contained shall prevent a proprietor from personally making use of the gas that may be found upon his property. (49-50 V., Ch. 74, Sec. 5.)

OIL AND GAS.

PROSPECTING—LICENSE—STAKING CLAIMS—REGULATIONS.

STATUTES 1915, P. 109.
(5 GEO. V.)

MARCH 5, 1915.

CHAPTER 35.

AN ACT to amend the Quebec Mining Law, and to repeal certain provisions relating to natural gas companies.

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

* * * * *

4. The Revised Statutes, 1909, are amended by inserting therein, after Article 2137 thereof, new articles, as follows:

2137a. Lands containing combustible natural gas, mineral oil or naphtha, may be staked or placed under licence either ordinary or for a long term, upon the conditions hereinafter set forth:

1. No staking or licence shall cover more than 1280 acres;

2. In surveyed territory the area staked out or covered by a licence shall consist of whole lots or regular fractions of lots; in unsurveyed territory, such area shall form a rectangle, but, in either case, the width of the claim shall not be less than one-half its length;

3. The holder of a miner's certificate who wishes to obtain an ordinary licence, must:

(a) Produce an accurate description and a regular survey plan of the ground applied for;

(b) Pay the sum of \$10.00, as a fee, and an annual rental of ten cents per acre;

• 4. Such licence is valid for one year only and is renewable once only on the same conditions;

5. At the expiration of the renewal or of the original licence, on proof of the discovery of combustible gas or of naphtha in appreciable quantity, the holder must provide himself with a special or long term licence covering a period of ten years, at an annual rental of twenty-five cents per acre, payable in advance. This latter licence is renewable by ten year periods, as long as the mining lasts, and upon payment of the same rental of twenty-five cents in advance.

2137b. The staking out for marking a claim, or the issue of an ordinary or long term licence, shall be effected in accordance with the formalities pre-

scribed by the foregoing article 2126, and with the same effect, except that the direction given the side lines is optional, and the inscriptions are repeated on each of the stakes, with a mention, moreover, of the length and direction of the lines, and that the staking is done with a view to prospecting for gas and petroleum.

2137c. No renewal of an ordinary licence, or issue of a long term licence, shall be granted, unless it be established, by affidavit at least, that work has been done to the value of \$1.00 per acre, for every acre under licence.

If the holder of a long term licence ceases to bore or mine in the area covered by the licence for a year, or does not continue doing so in good faith, the licence may be cancelled after a notice of three months, during which period the holder may resume work at the discretion of the Minister.

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MEXICO.

CONTENTS.

	Page.
Constitution of 1857.....	439
Pertinent sections.....	439
Powers conferred on Congress.....	439
Pertinent sections of Law of November 22, 1884.....	439
Pertinent sections of Law of June 4, 1892.....	440
Pertinent sections of Law of November 25, 1909.....	440
Constitution of 1917.....	440
Pertinent sections.....	440
Powers of Congress.....	444
Opinion on Article 27.....	445
Executive decrees to enforce Article 27.....	448
Decree of July 31, 1918, relating to oil-bearing lands and oil contracts.....	448
Decree of August 8, 1918.....	450
Decree of August 12, 1918.....	458
Federal Zone Concessions.....	459
River banks—Exploitation—Executive order March 12, 1920.....	459
Regulations governing exploitation in federal zones, April 21, 1920.....	462
Opinion upon concessions in "Federal Zones".....	467
Suspension of concessions.....	474
Argument of Sr. Manuel de la Peña.....	475
Establishment of Petroleum Advisory Board.....	476
Regulations of July 16, 1920.....	476
Taxation.....	476
Decree of April 13, 1917, with amendments of December 29, 1919.....	476
Regulations of April 14, 1917, for the stamp tax established by the Decree of April 13, 1917, with amendments of March 8, 1918.....	478
Of the tax and of companies subject thereto.....	478
Books.....	481
Procedure.....	482
Penalties.....	483
General provisions.....	485
Transitory articles.....	486
Decree of October 16, 1917, providing that the Department of Finance shall fix every two months the tax on crude petroleum.....	486
Circular of May 23, 1917, in regard to infalsificable tax established by decree of March 29, 1917.....	487
Chronology of events.....	487

CONSTITUTION OF 1857.

PERTINENT SECTIONS.

Article 14. No retroactive law shall be enacted. * * *

* * * * *

Article 27. Private property shall not be taken without the consent of the owner, except for reasons of public welfare, compensation having been made. The law shall determine the authority to make the expropriation and the conditions on which it shall be carried out.

No religious corporations nor institutions of whatever character, denomination, duration or object, nor civil corporations, when under the patronage, direction or administration of the former, or of ministers of any creed shall have legal capacity to acquire in fee, or administer, real property, other than the buildings immediately and directly destined to the service or purposes of the said corporations and institutions. Nor shall they have legal capacity to acquire or administer loans made on such real property.

Civil corporations and institutions not comprised within the above provision, may acquire and administer, in addition to the buildings mentioned, real property and loans made on such real property required for their maintenance and purposes, subject to the requisites and limitations to be established by the Federal law to be enacted by the Congress on the subject. (As amended, May 14, 1901.)

* * * * *

Article 32. Mexicans shall be preferred under equal circumstances to foreigners for all appointive public employments, offices, or commissions, when citizenship is not indispensable. * * *

Article 33. Aliens are those who do not possess the qualifications prescribed by article 30. They shall be entitled to the guarantees granted by Section 1, Title 1, of the present Constitution, except that in all cases the Government has the right to expel undesirable foreigners. They are under obligation to contribute to the public expenses as the law may provide, and to obey and respect the institutions, laws, and authorities of the country, subjecting themselves to the decisions and sentences of the tribunals, and shall not be entitled to seek other redress than that which the laws concede to Mexicans.

* * * * *

POWERS CONFERRED ON CONGRESS.

Article 72. The Congress shall have power: * * *

X. To enact mining and commercial codes, which shall be binding throughout the whole Republic. The banking law shall form a part of the code of commerce. (As amended, December 14, 1883.)

PERTINENT SECTIONS OF LAW OF NOVEMBER 22, 1884.

* * * * *

Art. 6. Foreigners may acquire mining property on such terms and with such limitations as the laws of the Republic grant them the capacity to acquire, own and transfer ordinary property. * * *

* * * * *

Art. 10. The following substances are the exclusive property of the owner of the land, who may therefore develop and enjoy them, without the formality of entry (denuncio) or special adjudication: * * *

IV. * * * petroleum and gaseous springs, or springs of warm or medicinal waters.

In order to develop these substances the owner of the land shall subject his operations to all rules and orders of a police nature.

* * * * *

PERTINENT SECTIONS OF LAW OF JUNE 4, 1892.

Art. 4. The owner of the land may freely work, without a special license (concesión) in any case whatsoever, the following mineral substances: mineral fuels, oils, and mineral waters.

Art. 5. All mining property legally acquired and such as hereafter may be acquired in pursuance of this law shall be irrevocable and perpetual, so long as the Federal property tax be paid, in pursuance of the provisions of the law creating the said tax.

PERTINENT SECTIONS OF LAW OF NOVEMBER 25, 1909.

Art. 1. The following property is owned directly by the Nation and is subject to the provisions of this law:

I. Ore bodies of all inorganic substances which in veins, in blankets, or in masses of whatsoever form, constitute deposits the composition of which is distinct from that of the country rock, such as deposits of gold, platinum, silver, copper, iron, cobalt, nickel, manganese, lead, mercury, tin, chromium, antimony, zinc and bismuth; of sulphur, arsenic and tellurium; of rock salt; and of precious stones.

II. Placers of gold and platinum.

Art. 2. The following are the exclusive property of the owner of the soil:

I. Ore bodies or deposits of mineral combustibles, of whatsoever form or variety.

II. Ore bodies or deposits of bituminous substances.

III. Ore bodies or deposits of salts which outcrop at the surface.

IV. Springs of surface and subterranean waters, subject to the prescriptions of the general law and of the special laws on waters, without prejudice to the provisions of Article 9.

V. The country rock and substances of the soil, such as slate, porphyry, basalt and limestone, and the earths, sands and clays.

VI. Bog and residual iron, alluvial tin, and the ochres.

CONSTITUTION OF 1917.

PERTINENT SECTIONS.

* * * * *

Art. 14. No law shall be given retroactive effect to the prejudice of any person whatsoever.

No person shall be deprived of life, liberty, property, possessions or rights except by means of a suit instituted before a duly created court, in which the essential elements of procedure are observed and in accordance with laws enacted prior to the act.

In criminal cases no penalty shall be imposed by mere analogy or even by a priori evidence, but the penalty shall be decreed by a law in every respect applicable to the crime in question.

In civil suits the final judgment shall be according to the letter or the juridical interpretation of the law; in the absence of the latter, the general legal principles shall govern.

* * * * *

Art. 27. The ownership of lands and waters comprised within the limits of the national territory is vested originally in the Nation, which has had, and has, the right to transmit title thereof to private persons, thereby constituting private property.

Private property shall not be expropriated except for reasons of public welfare and by means of compensation.

The Nation shall have at all times the right to impose on private property such limitations as the public interest may demand as well as the right to regulate the enjoyment of natural resources, which are susceptible of appropriation, in order to conserve them and equitably to distribute the public wealth. For this purpose necessary measures shall be taken to divide large landed estates; to develop small landed holdings; to establish new centers of rural population with such lands and waters as may be indispensable to them; to encourage agriculture and to prevent the destruction of natural resources, and to protect property from damage detrimental to society. Settlements, hamlets situated on private property and communes which lack lands or water or do not possess them in sufficient quantities for their needs shall have the right to be provided with them from the adjoining properties, always having due regard for small landed holdings. Wherefore, all grants of land made up to the present time under the decree of January 6, 1915, are confirmed. Private property acquired for the said purposes shall be considered as taken for public welfare.

In the Nation is vested the legal ownership (*dominio directo*) of all minerals or substances which in veins, layers, masses, or beds constitute deposits whose nature is different from the components of the land, such as minerals from which metals and metaloids used for industrial purposes are extracted; beds of precious stones, rock salt and salt lakes formed directly by marine waters, products derived from the decomposition of rocks, when their exploitation requires underground work; phosphates which may be used for fertilizers; solid mineral fuels; petroleum and all hydrocarbons—solid, liquid or gaseous.

In the Nation is likewise vested the ownership of the waters of territorial seas to the extent and in the terms fixed by the law of nations; those of lakes and inlets of bays; those of interior lakes of natural formation which are directly connected with permanent waters; those of principal rivers or tributaries from the points at which there is a permanent current of water in their beds to their mouths, whether they flow to the sea or cross two or more States; those of intermittent streams which traverse two or more States in their main body; the waters of rivers, streams, or ravines, when they bound the national territory or that of the States; waters extracted from mines; and the beds and banks of the lakes and streams hereinbefore mentioned, to the extent fixed by law. Any other stream of water not comprised within the foregoing enumeration shall be considered as an integral part of the private property through which it flows; but the development of the waters when they pass from one landed property to another shall be considered of public utility and shall be subject to the provisions prescribed by the States.

In the cases to which the two foregoing paragraphs refer, the ownership of the Nation is inalienable and may not be lost by prescription; concessions shall be granted by the Federal Government to private parties or civil or commercial corporations organized under the laws of Mexico, only on condition that said resources be regularly developed, and on the further condition that the legal provisions be observed.

Legal capacity to acquire ownership of lands and waters of the nation shall be governed by the following provisions:

I. Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in lands, waters and their appurtenances, or to obtain concessions to develop mines, waters or mineral fuels in the Republic of Mexico. The Nation may grant the same right to foreigners, provided they agree before the Department of Foreign Affairs to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same, under penalty, in case of breach, of forfeiture to the Nation of property so acquired. Within a zone of 100 kilometers from the frontiers, and of 50 kilometers from the sea coast, no foreigner shall under any conditions acquire direct ownership of lands and waters.

* * * * *

IV. Commercial stock companies shall not acquire, hold, or administer rural properties. Companies of this nature which may be organized to develop any manufacturing, mining, petroleum or other industry, excepting only agricultural industries, may acquire, hold or administer lands only in an area absolutely necessary for their establishments or adequate to serve the purposes indicated, which the Executive of the Union or of the respective State in each case shall determine.

* * * * *

VII. Excepting the corporations to which Clauses III, IV, V and VI hereof refer, no other civil corporation may own or administer on its own behalf real estate or mortgage loans derived therefrom, with the single exception of buildings designed directly and immediately for the purposes of the institution. The States, the Federal District and the Territories, as well as the municipalities throughout the Republic, shall enjoy full legal capacity to acquire and hold all real estate necessary for public services.

The Federal and State laws shall determine within their respective jurisdictions those cases in which the occupation of private property shall be considered of public welfare; and in accordance with the said laws the administrative authorities shall make the corresponding declaration. The amount fixed as compensation for the expropriated property shall be based on the sum at which the said property shall be valued for fiscal purposes in the catastral or revenue offices, whether this value be that manifested by the owner or merely impliedly accepted by reason of the payment of his taxes on such a basis, to which there shall be added ten per cent. The increased value which the property in question may have acquired through improvements made subsequent to the date of the fixing of the fiscal value shall be the only matter subject to expert opinion and to judicial determination. The same procedure shall be observed in respect to objects whose value is not recorded in the revenue offices.

All proceedings, findings, decisions and all operations of demarcation, concession, composition, judgment, compromise, alienation, or auction which may have deprived properties held in common by co-owners, hamlets situated on private property, settlements, congregations, tribes and other settlement or organizations still existing since the law of June 25, 1856, of the whole or a part of their lands, woods and waters, are declared null and void; all findings, resolu-

tions and operations which may subsequently take place and produce the same effects shall likewise be null and void. Consequently all lands, forests and waters of which the above mentioned settlements may have been deprived shall be restored to them according to the decree of January 6, 1915, which shall remain in force as a constitutional law. In case the adjudication of lands, by way of restitution, be not legal in the terms of the said decree, which adjudication have been requested by any of the above entities, those lands shall nevertheless be given to them by way of grant, and they shall in no event fail to receive such as they may need. Only such lands, title to which may have been acquired in the divisions made by virtue of the said law of June 25, 1856, or such as may be held in undisputed ownership for more than ten years are excepted from the provisions of nullity, provided their area does not exceed fifty hectares. Any excess over this area shall be returned to the settlement and the owner shall be indemnified. All laws of restitution enacted by virtue of this provision shall be immediately carried into effect by the administrative authorities. Only members of the settlement shall have the right to the lands destined to be divided, and the rights to these lands shall be inalienable so long as they remain undivided; the same provision shall govern the right of ownership after the division has been made. The exercise of the rights pertaining to the Nation by virtue of this article shall follow judicial process; but as a part of this process and by order of the proper tribunals, which order shall be issued within the maximum period of one month, the administrative authorities shall proceed without delay to the occupation, administration, auction, or sale of the lands and waters in question, together with all their appurtenances, and in no case may the acts of the said authorities be set aside until final sentence is handed down.

During the next constitutional term, the Congress and the State legislatures shall enact laws, within their respective jurisdictions, for the purpose of carrying out the division of large landed estates, subject to the following conditions:

(a) In each State and Territory there shall be fixed the maximum area of land which any one individual or legally organized corporation may own.

(b) The excess of the area thus fixed shall be subdivided by the owner within the period set by the laws of the respective locality; and these subdivisions shall be offered for sale on such conditions as the respective governments shall approve, in accordance with the said laws.

(c) If the owner shall refuse to make the subdivision, this shall be carried out by the local government, by means of expropriation proceedings.

(d) The value of the subdivisions shall be paid in annual amounts sufficient to amortize the principal and interest within a period of not less than twenty years, during which time the person acquiring them may not alienate them. The rate of interest shall not exceed five per cent per annum.

(e) The owner shall be bound to receive bonds of a special issue to guarantee the payment of the property expropriated. With this end in view, the Congress shall issue a law authorizing the States to issue bonds to meet their agrarian obligations.

(f) The local laws shall govern the extent of the family patrimony, and determine what property shall constitute the same on the basis of its inalienability; it shall not be subject to attachment nor to any charge whatever.

All contracts and concessions made by former governments from and after the year 1876 which shall have resulted in the monopoly of lands, waters and natural resources of the Nation by a single individual or corporation, are declared subject to revision, and the Executive is authorized to declare those null and void which seriously prejudice the public interest.

Art. 32. Mexicans shall be preferred under equal circumstances to foreigners for all kinds of concessions and for all public employments, offices or commissions, when citizenship is not indispensable. * * *

Art. 33. Aliens are those who do not possess the qualifications prescribed by Article 30. They shall be entitled to the guarantees granted by Chapter I, Title I, of the present Constitution; but the Executive shall have the exclusive right to expel from the Republic forthwith, and without judicial process, any foreigner whose presence he may deem inexpedient.

No foreigner shall meddle in any way whatsoever in the political affairs of the country.

* * * * *

SECTION III.

POWERS OF THE CONGRESS.

Art. 73. The Congress shall have power: * * *

X. To legislate for the entire Republic in all matters relating to mining. * * *

* * * * *

OPINION OF THE ATTORNEY GENERAL OF MEXICO AS TO THE INTERPRETATION TO BE GIVEN TO THE FIRST AND SEVENTH PARAGRAPHS OF ARTICLE 27 OF THE CONSTITUTION (1917).

[Translated from "Diario Oficial," December 8, 1917.]

I. All landed property, whether of national or of private ownership, urban or rural, comprised within the confines of the Republic, shall be considered as covered by the term "lands and waters of the nation."

II. Only Mexican individuals and Mexican associations have the right to acquire lands, waters and their appurtenances in the Republic.

III. Alien individuals may acquire such property, either directly from the nation or from individuals—Mexican or alien—on complying with the conditions prescribed in section I of the seventh paragraph of Article 27, when authorized by the State. Hence, even though compliance be had as hereinbefore provided, the State may deny aliens this right, under the discretionary power vested in it by this provision.

IV. Alien corporations shall in no event acquire such property.

In reaching these conclusions, the first step was to define the term "lands and waters of the nation." Inasmuch as the draft constitution submitted by the First Chief of the Constitutionalist Army, insofar as relates to Article 27, was accepted in full by the constitutional assembly, it was necessary to search the revolutionary legislation for antecedents on the case.

Accordingly, Circular No. 50 of the Department of Justice of the Constitutionalist Government defining the meaning of this term was considered, and as a result of this study the question was settled as given in paragraph I above.

The language of the constitutional text is sufficient ground for the opinion expressed in paragraph II hereof.

The conclusions arrived at in paragraphs III and IV hereof are the legal consequence of the application of Article 10 of the Civil Code. Since this provision qualifies the general rule as to the right to acquire landed property in the Republic, its application must be strictly limited to the single exception made; any attempt to extend it to other cases would be a violation of the legal principle above invoked.

The minor points contained in the conclusions above referred to are the necessary consequence of these major premises.

It should be added that this opinion is the result of the deliberations of the counselors of the several executive departments under the chairmanship of the undersigned.

(Signed) P. A. DE LA GARZA,
Attorney General.

Mexico, December 3, 1917.

OPINION ON ARTICLE 27.

A letter of July 30, 1919, from Ing. Pastor Rouaix, written in reply to requests for his opinion on Article 27 of the General Constitution, is given because of the important position the writer held as one of the principal collaborators in the formulation of that article.

The letter as translated is as follows:

DEAR SIR: I received your letter in which you advise me that, in view of the fact that I have been the principal collaborator in the formulation of Article 27 of the General Constitution at the Constitutional Congress of Queretaro, you wish to ask my opinion concerning the procedure which was planned to harmonize the rights to private ownership of the products of the subsoil and the principle of nationalization contained in the above Magna Charta.

Considering the great interest to the Nation involved in your question, I gladly answer your letter inasmuch as I believe that my opinion may bring some new idea which might be advantageously used in the equitable and just solution of the most important petroleum problem which is preoccupying to such an extent not only our own country but the foreign nations interested in this matter of present moment.

Hence, I advise you that the Constitutional Congress of Queretaro, considering the character which it had as a body for legislating principles, did not take into account the methods which should be put into practice in order to apply the precepts which it set down since this study was to fall later to the Executive or the ordinary Congress which should discuss the regulation of the articles of the constitution.

Consequently, I do not set forth the ideas which I am about to explain in my former capacity as a Deputy to the Constitutional Convention but as secretary of Fomento, a position which I filled beginning with 1914 and in which it fell to my lot, consequently, to initiate the policy of nationalization of the subsoil sustained by Mr. Carranza's Government from the beginning of the Revolution.

The fundamental idea that the Nation again became the owner of any substance in the subsoil not forming a constituent part of the earth, with the exception of underground water which is the element indispensable for its fertilization, holds such importance for the future development of the country that any modification which it is intended to make to this principle should be considered a backward step with fatal consequences for the Nation. It is enough merely to take into account the peculiar character of our landholders, their secular inclination towards the ownership of land, their inability to improve it and work it by processes distinct from those used by their ancestors and their tenacious opposition to every splitting up of their land which would oblige them to get rid of a piece of it even though this might be indispensable for the benefit of all to comprehend that, if the products of the subsoil had remained the absolute property of the landholders, Mexico would never have come to be one of the first mining countries of the world.

I appeal to the experience of any person who has devoted himself to the working of mines to prove the existence of the heap of difficulties which always faces the landholder and hinders him in working his lands and beginning the exploitation of his mines.

In the case of petroleum, the difficulties are the same. Every one knows the enormous capital it is necessary to raise when one intends to initiate a petroleum venture and be able to acquire a piece of land in the recognized and explored zone where the landholder is already convinced of the extent to which the exploitation of this wealth by another person will benefit his interests as well as the numberless difficulties—always due to the hindrance of the proprietor, which any enterprise encounters in order to make investigations in other unexplored regions of the country.

As this constitutional principle is beyond discussion and has been accepted as a fundamental basis for future legislation, I do not stop further with the presumption of sustaining its fitness but limit myself merely to answering the question which you put to me.

From the moment that I took charge of the office of the Department of Fomento, Colonization and Industry, I received instructions from the First Chief of the Constitutionalist Army to initiate a policy tending to secure the nationalization of the products of the subsoil, inasmuch as the Government was fully convinced that, for the good of the Nation, it was urgently necessary to bring this about. With this object in view, the first provisions were made for the establishment of the right of the Government to intervene and watch over petroleum exploitations and make the companies feel that the public interest was above individual interest without this signifying that the Government presumed by any manner of means to carry out any act which could be interpreted as a despoilation for the respect due the interests created by the enormous efforts of the companies as represented by the flourishing state of the petroleum industry which had absorbed so considerable a capital was always kept in mind.

When the undersigned, with the approval of the First Chief, inaugurated in the Constitutional Congress of Queretaro the principle of the proprietorship of the Nation over the products of the subsoil, he by no means had the intention of presuming to despoil the companies of the rights which they had acquired through their intelligence and capital. In establishing this precept, the idea which I had in order to put it into practice was that the Department of Fomento should immediately study a regulatory law which would reconcile the respect for created interests with the rights of proprietorship, dominium and absolute possession over the subsoil of the national territory which correspond to the Nation and thus establish two distinct cases for the application of the law: One embracing the zone already recognized as the petroleum zone which should be protected by official concessions or private contracts governing the exploitation of its wealth and the other comprising the great majority of territory of the Republic to which the owner of the surface could not allege the least right of possession in so far as concerns the unknown substance which might be in the depths of the earth.

In the first case, the Nation, owner of the subsoil, should draw up with the actual possessors special contracts confirming the exclusive right to explore and exploit for a period of time—which might be for fifty years—all lands which should be legally protected by deeds granted previous to the promulgation of the Constitution and directed towards this object. By this contract, the Government would receive the quotas agreed to in the contract, the royalties which were considered proper and the export and production taxes paid by any other enterprise in the remainder of the Republic, that is to say, an

attempt would be made to give to exploitations already established the character of legal possessions based on previous denouncements made when different laws were in force.

The remainder of the national territory would remain open and could be denounced with the broadness and liberality conceded by the mining law in force to any other mineral substances.

These plans of mine for drawing up the regulatory law could by no means be considered unconstitutional for article 27 itself states: "In the cases to which the two foregoing paragraphs refer, the ownership of the Nation is inalienable and may not be lost by prescription; concessions shall be granted by the Federal Government to private parties or civil or commercial corporations organized under Mexican laws only on the condition that said resources be regularly developed and on the further condition that the legal provisions be observed." Inasmuch as instruments for the regular development of petroleum exploitations had already been established in those zones, the Nation had the right to grant concessions with the provisions which it believed just and equitable and which necessarily had to be different from those made in connection with the exploited zones.

The Department of Fomento, then under my charge, thought that, in this way, without losing from sight the fundamental principle of the ownership of the Nation, created interests would be respected; that the petroleum companies, free from all fears and with their rights of possession expressly recognized, would willingly accept the law; and that it would thus remain as a glorious achievement for the Government of the Revolution to have again brought under the dominion of the Nation that which had inopportunately been lost.

With respect to the second point in your letter, relative to the apparent contradiction between the precepts of Article 27 and Article 14 of the Constitution, the latter of which refers to the prohibition against giving a retroactive effect to laws, my opinion—which I do not believe is of weight on account of the fact that this is a legal matter outside of my knowledge—has always been that retroaction should be understood to be limited to laws or constitutional reforms which are passed later but not to be applicable to the Constitution itself since the precise object of peoples in giving themselves new constitutions after periods of revolution is to radically change the previous legal principles and destroy the obstructions which past laws threw in the way of their development. When the Constitution of 1824 declared null the rights of the Spanish Crown to the national territory, it attacked a principle which had been in force for three hundred years and had a retroactive effect in various of its aspects. The Constitution of 1857 and the Reform Laws, upon declaring the incapacity of the clergy to hold property and the nationalization of this property, had a retroactive effect and any constitution promulgated by the most civilized people of the globe had a retroactive effect whenever it changed, for example, the monarchical for the republican regime, destroyed the preferential privileges of the nobility or nationalized property.

If no one objected to those constitutions which destroyed secular rights, much less can objections be made to our Constitution of 1917 which only destroyed a right based upon laws issued thirty-five years previous.

Nevertheless, a retroactive effect can not be given to the regulatory laws which may be issued on Article 27 of the Constitution on account of the fact that this same Constitution is in effect and that such an effect is expressly prohibited by Article 14. For this reason, even though the new law which may be issued on petroleum ought to contain in a clear and precise manner the

principle of the proprietorship of the Nation over the products of the subsoil in view of the fact that the Constitution provides this, it can not presume to destroy the past but should try to adapt it to the new ideas and respect the rights acquired in virtue of previous laws.

This, in my opinion, is amply secured by accepting as a basis for future legislation the ideas which I have previously explained. In this manner, the conflict going on between the Government of the Republic, the land-holders and the petroleum companies already established would be solved.

In the hope, as I stated at the beginning, that these ideas which I have rapidly outlined may be of use to the Nation and to the interests of the companies that you represent, I take pleasure in repeating myself your affectionate friend and obedient servant.

(Signed) PASTOR ROUAIX.

EXECUTIVE DECREES TO ENFORCE ARTICLE 27.

DECREE OF JULY 31, 1918, RELATING TO OIL-BEARING LANDS AND OIL CONTRACTS.

Art. 1. There is hereby established a tax on oil-bearing lands and on oil contracts executed prior to May 1, 1917, covering leases of lands for the development of hydrocarbons or permits to undertake such development whenever a consideration has passed. A tax is likewise levied on all agreements growing out of the above-mentioned contracts.

Art. 2. Annual rentals stipulated in the contracts to which reference is made in Article 1 hereof are taxed as follows:

(A) Rentals of five pesos per annum per hectare, or less, ten per cent of their amount.

(B) Rentals of over five pesos and up to ten pesos per annum per hectare, ten per cent on the first five pesos and twenty per cent on the remainder.

(C) Rentals of over ten pesos per annum per hectare, ten per cent on the first five pesos, twenty per cent on the next five pesos and fifty per cent on any remainder above the first ten pesos.

Art. 3. All royalties stipulated in oil contracts are taxed fifty per cent of their amount.

Art. 4. Claims (fundos) operated by the owners of the surface are assessed an annual rental of five pesos per hectare and a royalty of five per cent of the output.

Art. 5. Leased lands paying no rental shall be assessed five pesos per annum per hectare, even though it be stipulated in the respective contracts that no rental is to be paid; and lands paying no royalty shall be assessed five per cent of the output.

Art. 6. The Department of Finance and Public Credit shall decide in each case whether payment of royalties is to be made in cash or in kind, and shall notify the persons liable to the tax (causantes) within the last fifteen days of each two-monthly period which form of payment shall govern for the two-monthly period ending with the said fifteen days. Whenever the contracts executed prior to May 1, 1917, provide that payment of the royalty is to be made in metallic currency, the corresponding tax shall likewise be due and payable in metallic currency.

Art. 7. All persons liable to the taxes fixed by this law shall file in the Chief Stamp Tax Office within the first fifteen days of each two-monthly period a statement (manifestación), in accordance with the form authorized by the General Stamp Tax Bureau.

Art. 8. Payments in kind levied under this law shall be made at any of the storage stations belonging to the respective operator, at the election of the Department of Finance and Public Credit and without prejudice to the said operator.

Art. 9. Payments in cash of the taxes levied hereunder shall be made at the Chief Stamp Tax Office, within whose jurisdiction is located the land in question; in the event that the land belongs to several jurisdictions, payment shall be made in the tax office designated by the Department of Finance and Public Credit. Such payment shall be made in advance during the first fifteen days of each two-monthly period.

Art. 10. The payments mentioned in the foregoing article shall be made by means of special stamps bearing the legend: "Rentas Petroleras."

Art. 11. The appraisal of royalties for the payment of the corresponding tax shall be determined by taking as a basis the rates fixed by the Department of Finance and Public Credit in the corresponding two-monthly schedules, after deducting the cost of transportation by pipe-line from the point of production to the port of shipment, in accordance with the schedules authorized by the Department of Industry, Commerce and Labor for the pipe-lines of that region.

Art. 12. The taxes assessed hereunder shall be paid by the operators or the last assignees of the right of development. When these last assignees make payment to the lessors or immediate assignees, they shall deduct the corresponding taxes from the rentals and royalties prescribed in their contracts. The intermediate assignees, in making payment to their prior assignees or to the owners, shall deduct the taxes corresponding to the rentals or royalties prescribed in their respective contracts.

Art. 13. The revenue derived from the taxes levied hereunder shall be distributed as follows:

Sixty per cent. to the Federal Government.

Twenty per cent. to the State Government within whose jurisdiction is located the land in question.

Twenty per cent. to the municipality within whose jurisdiction is located the land in question.

If the lands are situated within several jurisdictions the Department of Finance and Public Credit shall distribute the rentals assessed hereunder and the taxes on rentals in proportion to the area appertaining to each jurisdiction, and the royalties according to the location of the wells and their output.

Art. 14. Owners of surface lands who have not leased them or otherwise contracted for the development of the hydrocarbons and the last assignees of the right of development under the contracts mentioned in Article 1 hereof, shall submit a statement (*manifestación*) within the first fifteen days of the month of August of the present year to the Department of Industry, Commerce, and Labor, according to the terms prescribed in Articles 16 and 17 hereof. On the expiration of the term set, every claim for which no statement shall have been filed as herein provided, shall be deemed open to entry (*vacante*); entries on such lands and the development thereof shall be governed by regulations to be issued, which regulations shall determine what persons are liable to the tax.

Art. 15. Should the last assignees of the right of development fail to make their statements within the term set, they shall be deemed to have waived their rights; in such event the prior assignees and the owners of such leased lands may file their statements within the two months next following, in order that the Department of Industry, Commerce and Labor may grant the preference, as among such persons as have filed their statements, to the last assignee of the

right of development. This preference shall be declared within the first fifteen days of November of the current year.

Art. 16. The statements of owners shall be accompanied by title deeds, or, in their absence, by certified copies thereof.

Such statements shall contain the following data:

- I. Name, age, nationality and domicile of the person filing the statement.
- II. Location of the land for which the statement is made, designating the name, number of the lot, hacienda, municipality, canton or district, and State.
- III. Area of the land for which the statement is made.
- IV. Date of acquisition.
- V. Name of vendor.
- VI. Purchase price.
- VII. Plat, or, in its absence, full description of the land, indicating the names of the adjoining lands and of their owners, and such other pertinent facts as may serve to identify the land in question.

Art. 17. Statements of assignees shall be accompanied by the deeds of transfer in their favor or by certified copies thereof. Such statements shall contain the following data:

- I. Name, age, nationality and domicile of the person filing the statement.
 - II. Location of the land to which the statement refers, designating the name, number of the lot, hacienda, municipality, canton or district, and State.
 - III. Area of the land.
 - IV. Name of the owner.
 - V. Date of the agreement made with the owner of the surface.
 - VI. Date of the agreement made with the person filing the statement.
 - VII. Rental paid by the person filing the statement.
 - VIII. Seignory or royalty paid by the person filing the statement.
 - IX. Duration of contract.
 - X. Plat, or, in its absence, full description of the land, indicating the names of the adjoining lands and of their owners, and such other pertinent facts as may serve to identify the land in question.
- Art. 18. Statements of owners or assignees which do not comply with Articles 16 and 17, respectively, shall be rejected.
- Art. 19. Any infraction of the provisions of this law shall be punished by a fine varying between fifty and one thousand pesos according to the seriousness of the offense; this shall not bar the institution of judicial proceedings if a criminal offense shall have been committed.
- Art. 20. This law shall take effect from the day of its promulgation.

TRANSITORY ARTICLES.

I. Statements submitted to the Department of Industry, Commerce and Labor in accordance with the decrees of February 19 and May 18 of the present year are valid.

II. The decrees cited in the foregoing article and all provisions in contravention of the stipulations of the present decree are hereby repealed.

(Signed) V. CARRANZA.

Mexico City, July 31, 1918.

DECREE OF AUGUST 8, 1918.

Art. 1. From and after August 16th next, entries on petroleum properties may be filed on free lands.

Art. 2. A "petroleum claim" shall be understood to be a solid of indefinite depth, limited laterally by vertical planes passing through the boundaries of a

continuous area of not less than four hectares and devoted to petroleum development.

Art. 3. By "petroleum development" shall be understood the extraction, reduction to possession or enjoyment of the following substances:

I. Petroleum to be found in orebodies, beds and natural deposits.

II. Gaseous hydrocarbons to be found in the subsoil or those seeping through the ground to the surface.

III. Natural deposits of ozokerite and asphalt.

IV. All mixtures of hydrocarbons of the several kinds having their origin in natural phenomena.

Art. 4. No land shall be deemed free which shall have received a patent (título) for the development of petroleum, or on which there shall be a patent pending.

Art. 5. No land whose owner shall have filed with the Department of Industry, Commerce and Labor the statement required in pursuance of Articles 14 and 17, and Transitory Article 1 of the Decree of July 31, 1918, shall be deemed free; but land shall be deemed free if, though the above mentioned statement shall have been filed, no claim thereon shall have been made by the person filing the statement or by the transferee of this preferential right, within the three months next following the 15th of the present month.

Art. 6. No land shall be deemed free which shall have been leased for petroleum development and the statement relating thereto filed with the Department of Industry, Commerce and Labor in pursuance of Articles 14 and 17, and transitory Article 1 of the Decree of July 31st of the present year; but land shall be deemed free if, although the statement shall have been submitted, no entry thereon shall have been filed by the person making the statement or the transferee of this preferential right within the two months next following the 15th of the present month.

Art. 7. Nor shall land be deemed free which shall have been leased for petroleum development and the statement relating thereto filed with the Department of Industry, Commerce and Labor in pursuance of Articles 15 and 17 of the Decree of July 31, 1918; but land shall be deemed free if, although the statement shall have been submitted, no entry thereon shall have been filed by the person obtaining the preference referred to in Article 15 of the decree hereinabove cited, or by the transferee of this preferential right, within the two months next following the declaration of preference mentioned in the article of the decree above cited.

Transfers of the preferential right mentioned in this article and in the two foregoing articles shall be recorded by public deed.

Art. 8. Nor shall land be deemed free, for the purposes of this decree and without prejudice to Article 27 of the constitution, which shall be covered by any license (contrato de concesión) granted by the Federal Government to any individual or corporation for petroleum development.

Art. 9. Lands of common use, waste and national lands, town sites, (Fundos legales) and commons (ejidos) not subdivided shall not be open to entry.

Art. 10. Each entry shall refer to a single petroleum claim.

Art. 11. Each applicant for a petroleum property shall file his entry in duplicate, with the proper Agent of the Department of Industry, Commerce and Labor; such entry shall contain the name, age, profession, domicile and nationality of the applicant, as well as the location, area, boundaries and other pertinent data necessary to identify the property in question.

Art. 12. If the applicant be an alien individual he shall attach to his application a certificate of the Department for Foreign Affairs, establishing that

he has complied with the requisites prescribed by Article 27 of the federal constitution.

Art. 13. If the applicant be an alien corporation which shall have previously filed the necessary statement regarding the lands which it may own or the rights of development of which it may be the assignee, the entry shall be admitted and the regular procedure followed; but patent thereto shall be issued only to an individual or a Mexican corporation organized under the laws of Mexico to whom or to which the applicant corporation shall transfer its rights.

Art. 14. The applicant shall file with his entry a certificate from the Stamp Office, setting forth that he has deposited the value of the stamps to be affixed to his patent according to the area of the property on which entry has been filed.

Art. 15. The Agent of the Petroleum Bureau (*Ramo de petroleo*) shall receive the entry, shall enter it in his register and shall record thereon, as well as the original as on the copies, the date and hour of presentation. The applicant may demand that these annotations be made in his presence. If, in the judgment of the Agent, the claim be lacking in clearness he shall request such explanations as may be necessary and shall record them in the original, in the copies and in the register book. The absence of explanations shall not be ground for a refusal to register the entry. The duplicate shall be returned with the corresponding annotations to the applicant.

Art. 16. Within the three days following the presentation of an entry, and in view of the explanation submitted, the Agent shall decide whether it is or is not to be admitted. In the former event, he shall dispatch it in accordance with the regular procedure; in the latter event, he shall set down in writing the ground for his decision, which shall be subject to review by the Department of Industry, Commerce and Labor, on request submitted by the applicant to the same Agent so soon as the latter shall notify him of his decision not to admit the entry, or within the ensuing three days.

Art. 17. Whenever two or more entries presented simultaneously and referring to the same tract of land shall be declared admitted, the choice between them shall be determined by lot, unless the preference as to the particular entry to be admitted shall be agreed upon between the interested parties.

Art. 18. Whenever several entries on different claims are filed, but having a portion common to all, a drawing covering all entries shall be held. Should the entry favored by lot embrace all entries filed, all remaining entries which shall have been included in the drawing shall, by virtue of this fact alone, be definitely rejected; but should the entry favored by lot comprise only a portion of the land on which entry has been filed, the remainder shall be included in a new drawing to be held as among all applicants, excepting only the applicant favored in the first drawing; and should there remain any portion of the land in dispute, after the second drawing, one or more successive drawings, as may be necessary, shall be held, at which the procedure detailed above shall be observed. Drawings shall be held at intervals of three working days, so that applicants may be present at each of them with their claims duly prepared. Applicants failing to attend any drawing to which they have been summoned shall thereby forfeit the preferential rights acquired under the first drawing.

Art. 19. So soon as an Agent admits a claim, he shall post it on his Bulletin Board (*Tabla de Avisos*) for a month, and shall furthermore cause it to be published three times within this period in the Official Gazette (*Diario Oficial*), and in two other journals chosen from among those having the largest circulation in the particular locality. The interested party shall take steps on his own account to see that the insertions are made.

Art. 20. The following shall constitute grounds for adverse claims (*oposición*) which shall suspend action upon the claims:

1. The total or partial encroachment upon a petroleum claim on which patent has been granted, and which has not been declared forfeited.

2. The claim of the whole or a part of a property on which entry has already been filed, legally submitted, and a ruling on which is still pending.

3. The non-expiration of the term within which, under these regulations, preference is granted to any individual or corporation with regard to the whole of a claim or a part thereof.

Art. 21. An adverse claim based on any of the grounds set forth in the preceding article shall be submitted to the Agent of the Petroleum Bureau within 60 days, reckoned from the date on which the entry shall have been posted on the Bulletin Board of the agency.

Art. 22. The adverse claimant shall submit with his adverse claim a certificate of the Chief Stamp Office setting forth that he has deposited the amount of the rental for one year corresponding to the property in question, in accordance with Articles 47 and 48 of this law; no adverse claim shall be admitted without the presentation of such certificate.

Art. 23. On the presentation of the adverse claim the interested parties shall be summoned to a meeting at which every effort shall be made to reach an agreement. In this action the procedure set forth in the regulations of the mining law at present in force shall be observed. If it be impossible to reach an agreement, the interested parties shall forthwith be notified that the merits of the adverse claim may be settled either by administrative or judicial procedure.

Art. 24. If the interested parties fail to choose immediately the administrative procedure, action shall be suspended and the records transmitted within 48 hours to the judicial authorities for the institution of judicial proceedings. The adverse claimant may only allege the grounds on which he based his original adverse claim and which expressly appear in the record transmitted by the administrative authorities to the judicial authorities.

Art. 25. If the interested parties choose the administrative procedure for the settlement of their differences, the record of the case shall continue the usual course, in order that the Department of Industry, Commerce and Labor, after hearing both parties, may render its final decision in the case.

Art. 26. When once the interested parties have chosen the administrative procedure, they shall not be permitted to resort to judicial proceedings; but if they have chosen the latter, they may, pending the rendering of the final judicial decree, submit the case to the ruling of the Department of Industry, Commerce and Labor.

Art. 27. Any ground for adverse claim differing from those laid down in Article 20 hereof, shall be submitted to the Agent, who shall not, however, suspend the regular procedure of the record. The Department of Industry, Commerce and Labor, so soon as it receives the case for review, shall decide whether the ground alleged shall or shall not be taken into account. In the former event the case shall be heard and a ruling handed down in accordance with the provisions of Articles 23 to 26 hereof. Should the Department refuse to admit the adverse claim, the case shall proceed as if no such adverse claim had been submitted, but the rights of the adverse claimant shall subsist.

Art. 28. The Department of Industry, Commerce and Labor may take into account during the review of the case any adverse claim submitted, provided the adverse claimant prove that he failed to submit his adverse claim to the Petroleum Bureau Agent, through no negligence of his own.

Art. 29. Applicants failing to make the insertions required under Article 19 hereof within the terms set by the said article, those failing to give the explanation requested in order that the entry may be admitted within the term set, and those failing to attend the meetings for the purpose of effecting an agreement shall be declared in default (*morosos*). Every defaulting applicant shall forfeit the deposit referred to in Article 14 hereof.

Art. 30. The adverse claimant who shall fail to attend any of the meetings for the purpose of effecting an agreement shall be deemed to have desisted from his adverse claim, except in the case of *vis major*.

Art. 31. Every adverse claimant who shall desist from his claim or whose adverse claim shall prove to be not well grounded shall forfeit the deposit prescribed by Article 22 hereof, which deposit shall be applied to the payment of the rental for one year on the property, reckoned from the date of the claim.

Art. 32. Should no final ruling on the claim be handed down within a year, the applicant and the adverse claimant shall each deposit the amount of rental for one year in the Chief Stamp Office; the same procedure shall be observed each year until a final ruling is given.

The deposit or deposits of the party in whose favor the final ruling is rendered shall be applied to the payment of the rental on the property, and the deposit or deposits of the party against whom the decision is rendered shall be applied to the Federal budget in the form of diverse profits (*aprovechamientos*); but the right of the former to bring suit against the latter for damages in cases where such action is permissible shall subsist.

Art. 33. The Department of Industry, Commerce and Labor may excuse the absences of the delinquent applicant whenever he shall prove, during the regular procedure of the record or its review, that such absences were due to *vis major* or fortuitous circumstances.

Art. 34. If no adverse claim causing the suspension of the regular administrative procedure in the case shall be presented within the period of 60 days allowed, the Petroleum Bureau Agent shall transmit to the Department of Industry, Commerce and Labor a copy of the record of the case as of that date.

Art. 35. Patents covering petroleum claims shall be issued through the Department of Industry, Commerce and Labor, after the Petroleum Bureau shall have reviewed the record submitted by the Agent. These patents grant legal possession of the respective claims, without the necessity of any further formality.

Art. 36. Patents shall be issued in favor of the applicant, without prejudice to the rights of third parties excepting in the cases prescribed in Article 13 hereof. They may be issued in favor of a person other than the applicant only on proof of the transfer of the rights of the applicant in favor of the said persons in a public deed. The interested party shall prove that he has paid the rental corresponding to his property before receiving his patent.

Art. 37. In the case of lands held in common, the petroleum development of which shall not have been legally granted, only co-owners may make entry on petroleum claims, and all action under such claim shall be suspended until all the co-owners or their representatives shall meet under the chairmanship of the Secretary of Industry, Commerce and Labor and make an express declaration, duly verified, of their individual rights; upon agreement, a patent covering the ownership in common shall be issued to the petroleum claim comprising the sub-soil of the land "*pro indiviso*." The share of each co-owner shall be stated in such patent. The call for the meeting of the co-owners shall be posted on the bulletin board of the respective Petroleum Agency within a term of 60 days; it shall likewise be published three times within the same

term in the Official Gazette and in the two newspapers of largest circulation in the locality.

The Department of Industry, Commerce and Labor is hereby authorized to appoint a committee charged with negotiating before the proper authorities the issue of patents of ownership in favor of such co-owners.

Art. 38. If on the expiration of a period of 90 days reckoned from the date of the call to which reference is made in the foregoing article, all the co-owners of the property in question fail to present themselves, such thereof as fail to present themselves shall be deemed to have forfeited their rights and patent to the property shall then be issued, subject to the compliance with the provision of this law, to such co-owners as do appear. Whenever those present do not seek to obtain patent covering the petroleum claim to all the land held in common, patent shall be issued for such portion as they wish, and the balance shall be declared free land.

Art. 39. The grantee of a petroleum property may at any time solicit a reduction in area. The petition to this effect shall be submitted to the proper Petroleum Agent together with the plat of the reduced claim and the original patent.

The new patent shall cancel the former patent, and no stamp tax by way of patent shall be assessed; but the grantee shall be bound to fix the boundary marks of the reduced property within the period set by the Department of Industry, Commerce and Labor. So soon as the reduction shall have been agreed upon, the excess land shall be declared free.

Art. 40. The grantee of a property may extract therefrom all substances mentioned in Article 3 hereof, without any other limitation than that of not trespassing by means of his extraction work on adjoining properties and that of complying with the provisions of this law and of such regulations as may later be enacted on petroleum development.

Art. 41. Operators of a petroleum property may occupy within the boundaries of a claim, subject to authorization of the Department of Industry, Commerce and Labor, the surface area necessary for the work of extraction and for the immediate storage of the oil extracted, paying in such event the corresponding compensation to whomsoever may be thereto entitled; any judicial action instituted hereunder shall not delay the prosecution of the work.

Art. 42. Operators of a petroleum claim shall acquire easements of passage and of pipe lines on obtaining permission from the Department of Industry, Commerce and Labor; they may likewise build such pipe lines and pumping stations as the development of the property requires on payment of proper compensation to whomsoever may be thereto entitled; any judicial action instituted thereunder shall not retard the carrying out of the work.

Art. 43. Operators of a petroleum property shall have the right to establish storage tanks and refineries, subject to the approval of the Department of Industry, Commerce and Labor and to the assent of the owners of lands it is sought to occupy. In the event of failure to obtain such assent, condemnation proceedings of the area necessary for such work shall be instituted.

Art. 44. Operators of petroleum properties shall have the right to build wharves, loading stations and submarine pipe lines, subject to the approval of the Department of Industry, Commerce and Labor, and in conformity with the provisions enacted on the subject by the Departments of Finance and Public Credit and of Communications and Public Works.

Art. 45. Only the respective grantees shall have the right to build storage tanks or refineries on petroleum claims.

Art. 46. The grantee of a petroleum claim may enjoy the surface waters for the needs of his operations, in pursuance of the general law on the subject.

He may use the subsoil waters for the same purpose, subject to the approval of the Department of Industry, Commerce and Labor and on payment of the corresponding compensation to whomsoever may be thereto entitled.

Art. 47. The grantee of a petroleum claim on leased land shall pay the tax fixed by Articles 2, 3, and 5 of the decree of July 31, 1918, making such distribution as is established in Article 12 of the same law.

Art. 48. The grantee of a petroleum property on land not leased shall pay an annual rental of five pesos per hectare and a royalty of 5% of the output.

Art. 49. Taxes shall be due and payable from the date of the entry and shall be paid in two monthly periods in advance; payment shall be made during the first fortnight of each period of two months.

Art. 50. Within a period of one year from the date of the issue of a patent the interested party shall build boundary marks at the vertices and other clearly defined points and such other intermediary marks as are necessary to make each boundary mark readily visible from the one next before; he shall be bound also to present in duplicate to the Petroleum Bureau the plat of the land thus marked out. This plat shall fulfill the requirements of the Department of Industry, Commerce and Labor, and the ratification or rectification of the patent shall be in conformity with such plat.

If the grantee shall fail to comply with this obligation, the Department of Industry, Commerce and Labor shall impose upon him a fine varying between 50 and 1,000 pesos, according to the size of the property and the recurrence of the offenses; it may likewise cause this work to be done at the expense of the grantee.

Art. 51. The interested party shall, within two years reckoned from the issue of the patent, submit in duplicate to the Petroleum Department the plans and descriptive data relating to the proposed work for the development of the petroleum property. These plans and data shall follow the requirements fixed by the Department of Industry, Commerce and Labor.

If the grantee fails to submit the documents provided for in this article, the Department of Industry, Commerce and Labor shall assess him a fine of 50 to 1,000 pesos, according to the size of the property, granting him another term within which to submit the said documents; no development work shall be begun until compliance be had with this requirement.

Art. 52. Within three years reckoned from the issue of a patent, the grantee of a petroleum property shall be bound to prove to the satisfaction of the Petroleum Bureau that work on the development of this property has been begun.

Art. 53. The ratification or rectification mentioned in Article 50 hereof may be made at the request of the owner of the property, of interested adjoining owners, or as a matter of course by a ruling of the Department of Industry, Commerce and Labor. In this last event, the final decision of the Department of Industry, Commerce and Labor shall not affect the rights of the owner of the claim nor those of the adjoining owners who believe their interests prejudiced.

Art. 54. Grantees of petroleum properties shall be bound to furnish the Department of Industry, Commerce and Labor such technical and economic data as it may demand through the Petroleum Bureau; they shall likewise be bound to admit on their properties pupils from public schools who may be sent for practical study of the petroleum industry, and to afford them every facility in their task. These obligations shall likewise be imposed upon the grantees of pipe-lines, refineries, storage tanks, and loading stations.

Art. 55. Patents to petroleum properties shall be forfeited for the following reasons: Through failure to pay the tax referred to in Articles 47 and 48 hereof; through failure to comply with the conditions laid down in Articles 52 and 54; through suspending work for a period of six consecutive months without cause, after the work of development shall have begun; or through any grave infraction of the Regulations of Development (Reglamento de Explotación).

Art. 56. Forfeiture shall be declared by the administrative authorities through the Department of Industry, Commerce and Labor, after opportunity shall have been given to the interested party to be heard in his own defense, provided he can not prove that his failure was due to "force majeure."

Art. 57. In the event of forfeiture through failure to pay the rental prescribed, the corresponding declaration shall be made within four months following the period of two months within which the failure to make such payment occurred.

In the case of forfeiture through failure to pay the royalty prescribed, the declaration shall be made within the period of two months following that in which the ground for forfeiture occurred.

Art. 58. In the case of the declaration of forfeiture of any petroleum claim, patent to which shall have been issued to any assignees, such claim shall only be open to entry during the three months following the declaration of forfeiture, by the prior assignees and by the owners of the surface of the property, who, to this end, shall make a declaration in the form prescribed in Articles 15 and 17 of this law, in order that the Petroleum Bureau of the Department of Industry, Commerce and Labor may admit the entry of the last assignee of the right of development.

If the property whose patent shall have been declared forfeited be operated by a third party through a contract still in force, the contract of development shall subsist, the new assignee taking the place of the former assignee for the purposes of the said contract.

Art. 59. The actual operator of a property, officially recognized as such, whose patent shall have been declared forfeited, but who is not the grantee of the property, shall enjoy a preferential right of entry, valid within the 30 days following the term granted in the foregoing article to the several assignees of the right of development and to the owner of the surface of the property, provided none of them have made use of these rights.

He shall likewise enjoy this preference in the cases of forfeiture not included in the foregoing article, within the 30 days following the date on which the declaration of forfeiture shall have been posted on the Bulletin Board of the respective Agency.

Art. 60. Every property comprising leased lands, patent to which shall have been declared forfeited, shall be deemed to be "free land," on the expiration of the terms fixed in the two foregoing articles and of the 30 days period from the date on which the declaration that the land is subject to claim, shall have been posted on the Bulletin Board of the respective agency.

Art. 61. Every property comprising lands not leased, and title to which shall have been declared forfeited, shall be deemed to be free land 30 days after the declaration of forfeiture shall have been affixed to the bulletin board of the respective agency.

TRANSITORY ARTICLES.

1. Entries may be made only on land, statement regarding which shall have been duly submitted and whose area exceeds 4 hectares, provided there exist at present on them wells either in a state of production or which are

being drilled, and provided further that they are covered by permits previously granted, and provided, still further, that statements relating thereto shall have been filed in accordance with the Decree of July 31, 1918.

2. The Decree of July 8, 1918, and all laws, regulations and provisions, are hereby repealed insofar as they conflict with the present decree.

(Signed) V. CARRANZA.

Mexico City, August 8, 1918.

DECREE OF AUGUST 12, 1918.

EFFECTIVE AUGUST 16, 1918.

WHEREAS claims upon which exploration or development work has been done, as well as those acquired after geological survey, have a greater value than ordinary claims, and, therefore, the right of development should not be granted by mere entry, I have seen fit to decree as follows:

Art. 1. Petroleum claims which have been surveyed and in which capital has been invested for oil exploration or development, and statements regarding which have not been filed up to August 15, 1918, as prescribed in the decree of July 31, 1918, shall not be open to entry.

Art. 2. The right to the petroleum development of these properties shall be acquired by means of special contracts to be executed with the Department of Industry, Commerce and Labor, in conformity with regulations to be issued on the subject, until such time as the organic law contemplated in Article 27 of the constitution shall determine the method of granting of licenses (concesiones) on this subject.

Art. 3. The present holders or operators of such properties who shall not have filed the statements required in the decree mentioned above shall continue to hold and operate the said properties on payment into the Federal Treasury of an annual rental of five pesos per hectare and of a royalty of five per cent of the output, until such time as the basic terms are published for the execution of the respective contracts. But if the interested parties shall prove that they are in possession of the said properties under contracts executed prior to May 1, 1917, they shall continue to hold and operate such properties subject to the obligation to pay the tax imposed on petroleum contracts by the Decree of July 31, 1918.

Art. 4. The present operators of such properties may continue to develop work already begun and authorized after compliance with the requirements laid down in the foregoing article; but they shall not be permitted to undertake new work until after the execution of contracts granting the right to develop such claims.

Art. 5. All persons liable to the taxes established under Article 2 hereof shall make their payments in accordance with Articles 6, 7, 8, 9, 10 and 11 of the decree aforementioned (July 31).

Art. 6. Payment of taxes levied hereunder shall give the payers thereof the preferential right in the execution of the contracts to which Article 2 hereof refers.

Art. 7. Failure to make payment of the taxes levied under Article 3 hereof shall result in the forfeiture of the preferential right acquired through such payment, and shall cause the claim in question to be declared open to entry or the preference to be granted to another.

Art 8. The executive may make use of the right of coercion in securing observance of the fiscal obligations imposed hereunder.

This law shall become effective from August 16, 1918.

(Signed)

V. CARRANZA.

NOTE: The series of Executive Decrees between February 19, 1918, and August 12, 1918, has been embodied in a petroleum bill which passed the Mexican Senate on December 8, 1919, but which has never been approved by the House of Representatives and is therefore not a legislative enactment. These decrees were issued by Carranza under extraordinary powers in the Department of Finance. Their constitutionality has been questioned in suits brought by the American and other foreign oil companies in Mexico in July, 1918, but no decision by the Supreme Court has yet been rendered. The decisions of the lower courts have all been adverse to the oil companies. These decrees under the guise of tax measures affected the titles to properties acquired prior to the Constitution of 1917. The companies declined to make payment and no attempt was made by the Mexican Government to collect the taxes.

FEDERAL ZONE CONCESSIONS

RIVER BANKS—EXPLOITATION.

EXECUTIVE ORDER OF THE CIT. PRESIDENT OF THE REPUBLIC, FOR THE DEPARTMENT OF INDUSTRY, COMMERCE, AND LABOR.

CONSIDERING:

1. That according to the postulates of Article 27 of the Political Constitution in effect, the dominium directum over petroleum and other hydrocarbons, solid, liquid, or gaseous, which may be found on the surface or in the subsoil of the national territory, corresponds to the nation;

2. That in the federal zones, beaches, the bottoms of seas, rivers, creeks, estuaries, lakes, and marshes, the nation has dominum directum over the surface as well as over the subsoil;

3. That the regions now recognized as oil-bearing, are crossed by numerous rivers, creeks, estuaries, lakes, and marshes under federal jurisdiction, the petroleum exploitation of which, when granted to individuals or to companies organized under Mexican law, is capable of producing large revenues for the national treasury from rents and a just and equitable participation as stipulated in the concession;

4. That such petroleum regions are under intense exploitation, to such an extent that the rapid exhaustion of their oil deposits is certain, as is occurring in the region known as "Chinampa," without leaving to the nation the just returns which would have belonged to it, had there been permitted the drilling of wells in the federal zones of rivers, creeks, estuaries, etc., of federal jurisdiction which cross the same in all directions;

5. That, moreover, according to paragraph six of Article 27 of the Political Constitution in effect, the Federal Government is empowered to grant concessions covering deposits of petroleum and other hydrocarbons, solid, liquid or gaseous, provided that regular work for the exploitation thereof is conducted; and,

6. That petitions which have been presented for drilling in the Federal zones of rivers, creeks, etc., in the region now recognized as petroleum-bearing, are already very numerous, and that it is deemed necessary that such petitions should receive consideration in behalf of the interests of the Public Treasury as well as of the petitioners;

THEREFORE, the Department of Industry, Commerce and Labor is authorized to grant such concessions in the name of the Executive, subject pro-

visionally, and until such time as the Congress of the Union shall enact the Petroleum Law, to the following

GENERAL BASES WHICH SHALL GOVERN CONCESSIONS WHICH THIS DEPARTMENT OF INDUSTRY, COMMERCE AND LABOR, SHALL GRANT FOR THE EXPLOITATION OF PETROLEUM AND OTHER HYDROCARBONS WHICH MAY EXIST IN THE SUBSOIL OF THE FEDERAL ZONES, BEACHES, AND BOTTOMS OF RIVERS, CREEKS, LAGOONS, ESTUARIES, ETC., OF THE NATIONAL TERRITORY.

I. Concessions for the exploitation of petroleum and other hydrocarbons in the federal zones, beaches, and bottoms of rivers, creeks, estuaries, lagoons, etc. may be granted only to Mexicans by birth or naturalization or to companies organized under Mexican law.

II. The foregoing requirement being fulfilled, the following order of preference shall apply in obtaining these concessions:

1st. Those legally authorized to exploit the petroleum claims bordering on the federal zones.

2nd. The owners of the adjoining land, when concession for the exploitation of the subsoil of such lands has not been granted.

3rd. The exploiters or owners of lands located less than two kilometers from the federal zone, who can show that they possess an area sufficient to establish the storage tanks and other installations necessary for the exploitation of the subsoil in the portion of the federal zone granted to them.

III. The duration of concessions shall be ten years.

IV. The petitions for obtaining these concessions shall be published and handled in the same manner as that established for the denouncement of petroleum lands.

V. As regards concessions requested by companies or individuals who do not possess the right of preference under the foregoing articles, the maximum length of federal zone to be granted to them for exploitation shall not exceed ten kilometers.

VI. Federal zone strips respecting which there may exist some contract, concession or legitimate permission for the temporary occupation thereof, shall not be granted for exploitation.

VII. Concessionaires shall present within a period of six months, from the date of the concession, a plan of the zone granted in accordance with the limits fixed in the concession.

VIII. The concessionaires shall drill within five years from the date of their concession, at least one well for each two kilometers or fraction of over one kilometer, of zone granted. The first of these wells shall be terminated within the first year of the life of the concession.

The obligation of the concessionaires, in respect to each of the wells mentioned, shall be discharged with the termination of one productive well, or with the drilling of one well to the mean depth of the productive wells in the immediate vicinity.

IX. The localization of wells and of the installations needed for the drilling thereof, shall be subject to the approval of the Department of Industry, Commerce and Labor. All installations shall be temporary in character, and they shall be removed as soon as possible without injury to the progress of the work.

X. Concessionaires shall pay:

(1) An annual rental of one hundred pesos per kilometer or fraction thereof, of federal zone granted;

(2) A participation (share) in the daily production of petroleum taken from the wells drilled in the zone granted, which shall vary as follows:

	Per cent
For the first 1,000 cubic meters or less of daily production.....	5
Over 1,000 and up to 2,000 cubic meters.....	10
Over 2,000 and up to 5,000 cubic meters.....	15
Over 5,000.....	20

To liquidate the share corresponding to each month, an estimate will be computed of the average daily production during that month.

XI. The Government is entitled to exact its participation either in cash or in kind. For the payment in cash, the petroleum shall be valued at the place of production.

If the Government desires to receive its participation in kind, the concessionaires shall be obligated only to hold it in storage in their tanks for fifteen days following that of the liquidation.

XII. Should the concessionaires not extract during a given month an amount of petroleum equivalent to 50% of the producing capacity of their wells, the Government may extract for its account, the participation to which it is entitled, based on the said producing capacity.

XIII. For the foregoing purpose, the Government inspectors shall measure each month, in the presence of employees of the concessionaires, the producing capacity of the wells.

XIV. The concessionaires shall guarantee the fulfillment of their obligations by means of a deposit of one thousand pesos for each kilometer or fraction of over 500 meters, of federal zone granted. This deposit shall be returned to them when the first productive well is brought in, which shall serve, as with all which should thereafter be drilled, as a guaranty for the fulfillment of their obligations.

XV. The periods stipulated in this concession shall be lifted in a fortuitous case or one of force majeure, which may impede directly and absolutely compliance with the obligations stipulated, and the Department of Industry, Commerce and Labor may in such case extend such periods for the time it may consider necessary.

In order that concessionaires may avail themselves of this grace, they shall present evidence to the said Department, with necessary proofs, respecting the fortuitous or force majeure case, which may have prevented or prevents, compliance with their obligations. Notice and proofs to the Department regarding the case of force majeure, shall be presented within one month from the date such fortuitous case arises.

XVI. Concessionaires shall be entitled to establish pipe lines to carry the petroleum from the wells to storage stations, as well as to establish along the water ways comprising the zone granted, the necessary wharves for the exploitation, under such conditions as may be established by the Departments of Communications and Public Works, of Hacienda, and Public Credit, and of War and Marine.

XVII. The Department of Industry, Commerce and Labor, through its inspectors, may examine the books relating to the exploitation of the wells covered by these concessions whenever it may deem expedient.

XVIII. In case an imperious public necessity demands, the concessionaires obligate themselves to sell to the Federal Government the production of their wells at a price to be fixed in the manner stipulated in fraction XI.

XIX. In respect to all that is not specially provided for in these bases, concessionaires shall be subject to all the laws, regulations and administrative rulings governing the petroleum industry.

XX. Concessionaires shall carry on the exploitation of the federal zones, without prejudice to the navigation and common use to which they may be destined. They shall be obligated to pay indemnification for injuries occasioned, under the federal laws governing the matter.

XXI. In no case may concessionaires mortgage, transfer, or in any manner make over the concessions or any of the rights and privileges therein contained, to any foreign company, Government, or state, nor admit them as partners, any transaction of this nature which may be made, being null and void. Neither may they transfer the concessions to any individual or corporation, without the previous consent, in writing, of the Department of Industry, Commerce and Labor, this being a permanent obligation for all the companies which might thereafter acquire the rights granted by the concession.

XXII. Concessionaires shall have the preferred right, upon the termination of the life of their concession, to renew the same for the time and under the conditions which the Federal Executive may deem expedient.

XXIII. The Department of Industry, Commerce and Labor shall punish the faults of concessionaires which do not merit the annulment of their concessions, with fines varying between one hundred and one thousand pesos, according to the gravity and frequency of the faults.

XXIV. The Department of Industry, Commerce and Labor, may administratively declare the annulment of the concessions, for any of the following reasons:

1. Because, at the expiration of the life of a concession, the same is not renewed.

2. Because concessionaires do not make the payments prescribed in Clause X of these bases.

3. Because they do not drill within the periods and under the conditions stated in Clause VIII.

4. Because they ask protection from a foreign Government, transfer the concession to it, or admit it as a partner. In any of these cases, the concessionaires shall lose to the nation all their installations.

5. Because, in the exploitation of the zone granted, they defraud in any manner the fiscal interests.

In case of annulment, concessionaires shall lose the guaranty deposit, in case it shall not have been returned, as well as the wells being drilled, and those that are productive, which they shall deliver to the Government for immediate utilization.

The Department of Industry, Commerce and Labor, before making the declaration of annulment, shall give to the interested parties a period of not less than sixty days for their defense.

XXV. The stamps to be adhered to the concession, shall be paid by the concessionaires.

Constitution and reforms, Mexico, March 12, 1920.

(Signed) V. CARRANZA.

REGULATIONS GOVERNING EXPLOITATION IN FEDERAL ZONES APRIL 21, 1920.

[Translation from "El Universal," April 30, 1920.]

For the purpose of fulfilling the provisions of Article IV of the Order of the President of the Republic, dated the twelfth of March of the current year, which fixes the general bases which shall regulate the concessions which

may be granted for the exploitation of petroleum and other hydrocarbons existing in the subsoil of federal zones, etc., of the national territory, this Department has seen fit to issue the following regulatory precepts:

I. For the purposes of the present regulations there is understood by exploitation of the subsoil the extraction and securing of the following substances:

(a) Petroleum which may be found in beds, pools and natural deposits.

(b) Gaseous hydrocarbons which may be found in the subsoil or which may escape to the surface of the ground.

(c) Natural deposits of ozocerite and asphalt.

(d) All mixtures of hydrocarbons with the different groups which owe their origin to natural agencies.

II. Concessions can not be granted to exploit any portion of the lands under consideration to which there may apply any exclusive concession in force which was issued previously or any concession whose settlement is pending.

III. Every petition shall refer exactly to a portion of land having a continuous area. In cases of rivers or creeks, the concession shall give the right to exploit the zone situated on a single one of the banks and the corresponding half of the bed of the stream.

IV. Every applicant shall file with the proper Petroleum Agency of the Department of Industry, Commerce and Labor a petition, in triplicate, setting forth his name, age, profession, domicile, and nationality, as well as the location, length, boundaries and other pertinent data necessary to identify the tract whose subsoil it is sought to develop.

V. If the petitioner should be a corporation or alien individual, the petition shall be received and continue its regular course; but the concession shall only be granted to a Mexican by birth or naturalization, or to a company, organized under the laws of Mexico, to which the petitioner assigns his rights within a period of three months from the date which the Department of Industry sets for this purpose.

VI. The petitioner shall present, together with his petition, a certified statement of the Main Tax Office having jurisdiction in which it is stated that he deposited the value of a year's rent in accord with Article X, Section 1 of the relative bases.

VII. The Agent of the Division Handling Petroleum Affairs shall receive the petition and record it in his register and shall note on the original and on the copies of the petition the day and the hour of presentation. The petitioner may require that these notations be made in his presence. If, in the opinion of the Agent, the petition should not be sufficiently clear or data should be lacking, he shall ask the one presenting it for the necessary explanations and shall enter these on the original and on the copies and in the registry book. The lack of explanations shall not be a reason for failing to register the petition. The duplicate, with the proper notations, shall be returned to the person who presented it.

VIII. Within three days after the presentation of a petition and in view of the explanations, in case it has been necessary to make them, the Agent shall determine whether or not it is to be accepted. In the former event, he shall proceed to make out the papers and in the latter event, he shall set down in writing the reason for his determination which shall be subject to revision by the Department of Industry, Commerce and Labor upon the request of the petitioner presented to the same Agent when advised that his petition is not accepted or within three days thereafter.

IX. When two or more petitions referring to the same land shall have been simultaneously declared acceptable, that one shall have preference which is

designated by chance unless the preference should be decided by agreement between the parties interested.

X. When several petitions are presented simultaneously for different tracts, all of which, however, contain a part in common, a drawing shall be held covering all the petitions presented. If the petition favored by chance includes the other petitions presented, the other ones, which have entered into the drawing, shall be definitely excluded by that single fact alone; but, if the petition favored includes only a part of the land denounced, the remaining part shall be subjected to a new drawing of all the petitioners except the one favored in the first drawing; and if, after the second drawing, some part of the land should still remain in dispute, another drawing or other drawings, if it should be necessary, shall be held in accordance with the same procedure. Drawings shall take place with intervals of three working days so that the petitioners may be present at each one of them and may have fulfilled the due requirements in connection with their petitions. Petitioners who do not attend the drawing to which they are summoned shall lose on this account their preferential rights to the advantage secured from participation in the first drawing.

XI. Once the Agent accepts a petition, he shall post it on his bulletin board for a month and shall order it to be inserted three times, within the same period, in the *Diario Oficial* and in two other newspapers chosen from among those having the largest circulation in the locality. The interested party shall have the right to negotiate personally such insertions and shall be responsible on his own account for the costs of these inserts.

XII. Causes for objection which may suspend action on a petition to exploit the lands under consideration are:

(a). The total or partial invasion of a petroleum concession which has been granted previously to another person for its exclusive exploitation and the concession to which has not been canceled (forfeited).

(b). A petition pending settlement which was presented previously in accord with the law, for a concession to a part or the whole of the same land solicited.

(c). The enjoyment of preferential rights to the whole of the concession solicited or part of it as established in the relative bases.

XIII. An adverse claim based upon any of the causes established by the foregoing precept shall be made before the proper Petroleum Agency within a period of sixty days reckoned from the date on which the petition was posted on the bulletin board of the Agency.

XIV. The adverse claimant shall present, together with his adverse claim, a certified statement from the Main Tax Office concerned in which it is stated that he has deposited a year's rent for the tract of land in question in accord with Article X, Section 1 of the relative bases. Without the presentation of this certified statement the objection shall not be entered.

XV. On the filing of an adverse claim, the parties shall be summoned to a conference for the purpose of bringing about an agreement; in case an agreement is not effected, the Agency shall inquire through the speediest channels whether this Department, acting in an administrative capacity, should definitely settle this matter or whether the judicial authorities are the ones who should do so, without detriment, in either case, to the rights of the one making the objection.

XVI. If the judicial authorities are the ones who should settle the question of the objection, proceedings in the case shall be suspended and the papers (record) shall be sent, within forty-eight hours, to such authorities so that they may render the proper decision. The adverse claimant may only base his objection on the causes which he shall have alleged and which are expressly

stated in the administrative papers just as they were transmitted to the judicial authorities.

XVII. If the administrative authorities are the ones who should decide the question of the objection, the proceedings in the case shall be continued to the end that in due time the Department of Industry, Commerce and Labor may definitely decide upon the objection after hearing the petitioner and the one objecting to the granting of his petition.

XVIII. Any ground for an adverse claim different from those expressed in Clause XII should be submitted to the Agency but the Agency shall not suspend proceedings. When the papers pass to the Department of Industry, Commerce and Labor for its examination, this Department shall decide whether that ground alleged should or should not be taken into consideration. In the affirmative case, the objection shall be thoroughly examined and shall be settled by observing, in so far as advisable and practicable, the stipulations of Clauses XIV-XVII. If the Department refuse to admit the adverse claim, the case shall proceed as though no such adverse claim had been made and shall respect the rights of the objector.

XIX. The Department of Industry, Commerce and Labor may take into consideration, during the examination of the papers, any adverse claim which may be presented to it, provided the adverse claimant gives proofs that he has not, through any negligence of his own, taken up with the Petroleum Agency causes for objection which do not fall under its jurisdiction.

XX. The following persons shall be declared negligent (in default): the petitioner for a concession who does not publish the inserts mentioned in Clause XI within the period of time set; the one who does not make the explanations requested of him to the end that his petition follow its regular course within the time fixed for it to do so; the one who does not attend the conference of arbitration when objection is made to the petition; and the one who, once the examination of the papers is finished in the Petroleum Bureau, does not make the deposit mentioned in Clause XXVIII within the period of three months fixed for this purpose. The petitioner who has been declared in default shall forfeit the rent which he shall have deposited in accordance with the provisions of Clause VI; but he may, if he so desires, present a new petition relative to the same concession provided he makes a new deposit; and with the understanding that no preference is to be shown him with respect to any other petitioner who may present himself. The second petition shall follow the same procedure as provided in the present regulations.

XXI. An adverse claimant who does not attend the conferences of arbitration shall be considered as having ceased his objection except in the case of force majeure.

XXII. An adverse claimant who has ceased in his objections or whose objections prove unfounded shall lose the deposit fixed by Clause XIV and this shall be applied to the payment of a year's rent for the zone in question counted from the date of the petition. In case the petitioner ceases in his action, he shall likewise lose the deposit which he shall have made.

XXIII. An adverse claimant, in case he obtains the final decision in his favor, obligates himself to ask for the concession to exploit the land referred to in his objection. If the adverse claimant does not fulfill this obligation within the space of a month which shall be granted him from the time the adverse claim has been decided in his favor, he shall lose ipso facto all his preferential rights to the land in question besides the deposit which he shall have made in accordance with the provisions of Clause XIV.

XXIV. In case a petitioner does not secure the final decision in his favor, on account of adverse claim to his petition, the deposit which he shall have made in accord with Clause VI shall be returned to him.

XXV. The Department of Industry, Commerce and Labor may excuse the default of the negligent petitioner whenever he gives proofs, within the time in which his petition is being acted upon and the papers examined, that his defaults were due to chance or force majeure.

XXVI. In case the period of sixty days draws to a close without any adverse claim having been presented which might give occasion to the suspension of administrative proceedings, the Petroleum Agent shall transmit to the Department of Industry, Commerce and Labor a copy of the papers (record) in the condition in which they are found at that date.

XXVII. Concessions shall be issued through the Department of Industry, Commerce and Labor after the Petroleum Bureau has examined the papers (record) of the Agency (Case). These concessions confer the right to exploit the respective zones without any other formalities.

XXVIII. Before a concession may be granted, the petitioner shall prove to the satisfaction of the Department of Industry that he has made the deposit in the General Treasury of the Nation referred to in Clause XIV of the relative bases.

XXIX. Outside of the cases foreseen in Clause V, concessions shall be granted, without detriment to a third party, in favor of the one making the denouncement. In order that those may be granted in favor of a different party, it shall be necessary to prove by means of a public document the transfer of the privileges of the petitioner in favor of such party.

XXX. The concessionaire may extract from the respective zone all the substances referred to in Clause I without further limiting conditions than not to invade the adjacent lands with his excavation works and to fulfill all the regulations in force in this regard.

XXXI. The concessionaire may make use of the surface waters for the necessities of exploitation in accordance with the ordinary laws on this subject. He may also use the subsoil waters to the same end after he has secured the authorization of the Department of Industry, Commerce and Labor and has paid the proper indemnification to the one who may be entitled to it.

XXXII. Rent shall begin with the date of the petition and shall be paid yearly in advance. Upon the failure to pay any year's rent during the month following the date on which it falls due, the concessionaire shall be liable to the penalty indicated in Clause XXIV, Section 2 of the bases which are being regulated.

XXXIII. Each concessionaire is obliged to furnish the Department of Industry, Commerce and Labor with the technical and economic data which it may request through the petroleum bureau and to admit and give all manner of facilities to the students of the official schools who wish to make a practical study of the petroleum industry.

XXXIV. If the land referred to in a concession forfeited in accordance with provisions of Clause XXIV of the bases which are being regulated, should be in the process of exploitation by a third person by means of an effective contract and if, besides, one of the persons having preferential rights, according to those bases, to secure the concession makes use of them and is consequently granted the concession, said contract shall hold and the new concessionaire shall take the place of the old for the purposes of the contract. In the case to the contrary, the exploiter has the afore-mentioned preferential rights over a third person.

XXXV. All land, concessions to which have been cancelled, may be applied for anew for exploitation in accordance with the present precepts.

XXXVI. No documents shall be accepted which are based on any concession granted previously to the date of the bases to which this regulation refers and in which information is given or authorization is asked for the drilling of wells or the making of installations in connection with the exploitation of lands with respect to which there has been granted or there is in the process of being granted any concession protected by these same bases.

XXXVII. In exploiting the subsoil of a piece of land in conformance to any concession granted in accord with the bases mentioned, the protected zone should be respected which, within the tract granted, legally belongs to everyone of the wells located on this same land and protected by concessions previous to the date of the bases in reference.

The foregoing is brought to the knowledge of the interested parties for the proper ends.

CONSTITUTION AND REFORMS, Mexico, D. F., April 21, 1920.

The Chief Clerk, in Charge of the Office.

JOSÉ VÁZQUEZ SCHIAFFINO,

Rubrica.

To the companies and private individuals interested in the petroleum industry.

OPINION UPON CONCESSIONS IN "FEDERAL ZONES."

I. By the term "Federal Zones," as used in Mexican legal terminology, is meant certain portions of ground of a width fixed by law, measured along the banks and shores of seas and lakes and rivers within the public domain. Such zones are defined by the Federal Law of December 18, 1902.

To avoid confusion it will be well to call attention to the fact that the so-called "Federal Zones" commence exactly at the point where the banks and shores end. The law defines the term "beach"—speaking of the sea—as that portion of ground which by the action of the tide is covered and uncovered by water up to the limits of the highest yearly tide (Article Fourth, Section III, Law December 18, 1902); and by "banks"—speaking of rivers, lakes, etc. (Article Fourth, Section VII, of the above-mentioned Law)—must be understood that portion of ground comprehended between the normal limit of water and the line of the highest water.

II. The aforesaid Law of December 18, 1902, designated under the name of Terrestrial Maritime Zone, a strip of land of twenty meters in width contiguous to the beaches of the sea or to the banks of the rivers from the mouth thereof at the sea to the point up-river which is reached by the highest annual tide; and, moreover, established another zone ten meters in width along the banks of rivers, esteros, lakes, and lagoons of Federal jurisdiction which commences to be measured, with respect to rivers subject to tide, from the point at which the tide action ceases, and in any case starting from the line of highest water.

To these zones thus defined has been given the general name of "Federal Zones."

III. The above-mentioned Law of December 18, 1902, established these zones solely with relation to waters within Federal jurisdiction.

Waters of the sea have always been within Federal jurisdiction.

Respecting other bodies of water, such as rivers, lakes and esteros, the above-mentioned law solely referred to those which were of Federal jurisdiction, in accordance with the classification established by other laws.

IV. What, then, were these waters of Federal jurisdiction--in addition to the territorial seas on the date when the Law of December 18, 1902, was issued?

Another Federal Law had defined them and this was the Law of June 5, 1888.

The latter law was issued in the exercise of the power which Section 22 of Article 72 of the Constitution of 1857 conferred upon Congress; that is to say, the power of making laws as to general routes of communication. This Law of June 5, 1888, enumerated as within the group of general routes of communication:

(a) The territorial seas.

(b) The esteros and lagoons which are found along the beaches of the republic (that is to say, which have direct communication with the sea).

(c) Canals constructed by the Federation.

(d) Interior lakes and rivers if they were navigable or floatable.

(e) Lakes and rivers of any sort whatsoever which serve as a boundary line between Mexico and a foreign nation, or between two or more States of the Mexican Republic.

Inasmuch as for the object of this memorandum it is not important to consider the legal condition of the waters of the sea nor of interior lakes, reference will be made solely to other bodies of water.

V. The sources of Mexican legislation are, as is well known, the Roman Law and the Spanish Laws. Some of these latter laws continued in force in Mexico after its independence up to the date when the Mexican Republic commenced to formulate its own laws, especially its codes--the Civil Code, Penal Code, Commercial Code, etc. In accordance with the Spanish Law, rivers were within the public domain and of common use, the term "river" being understood to mean a body of water contained between two banks which has run perpetually since time immemorial. (See the study of the eminent Mexican jurist, Jacinto Pallares, *Review of Legislation and Jurisprudence*, the Year 1895; also see Escriche "*Dictionary of Legislation and Jurisprudence*.")

In other words, a river, in the legal sense, both Spanish and Mexican, must be a perpetual current of water.

VI. It is a general rule that rivers thus defined are by their very nature of common use and belong to the public domain. This is understood not only with regard to the waters but also with regard to their beds and bottoms, as is expressly recognized in the Mexican Civil Code of 1870. (Article 803, Section III.)

VII. But this general rule has exceptions, due to the origin of private landed property in Mexico. By the right of conquest the Spanish Crown declared itself the owner of the entire conquered territory, which, in its entirety, became a part of what was called the "royal patrimony." All individual land ownership in Mexico emanates originally from grants or concessions which the King gave to his subjects, and such grants included lands, waters, woods, etc. Thus frequently the ownership of the land carried with it the ownership of the waters, except where the latter had been expressly excluded from the grant. This condition prevails throughout a large part, and possibly the whole of the oil regions.

It is obvious that in those cases in which the ownership of the water was an integral part of the ownership of the land, the beds, or channels through which these waters run are likewise the property of the owner of the land.

VIII. Treating of waters which are not permanent or those which only have a current during the rainy season which is directly due to this season, we have

no knowledge of any royal grants in which these waters have been reserved. Wherefore, we may say that their ownership is likewise transmitted with the ownership of the land. Hence, the channels along which they run, called "barrancos, arroyos, etc.," belong in fee to the owner of the property which they cross. The ownership of these arroyos and barrancos is neither reserved to the royal patrimony by the Spanish Law, nor was this ownership excluded in the grants of lands which were issued in the name of the King.

The Mexican Laws have not changed this situation, and therefore the owner of a tract of land is the owner of the channels of the occasional waters which cross the land. The administrative and civil laws of Mexico regulate the use of waters; but such laws do not change the legal condition of the land through which they run, which, as has already been said, form an integral part of the respective tracts and are protected by the deed to such tracts.

IX. We may therefore say that it is a general rule in Mexico that as to rivers, properly so called, that is to say, perpetual water courses, the beds, like the waters themselves, are of the public domain. This, however, can not be stated with respect to the banks themselves. These latter belong in fee to the owners of the adjacent properties.

The principle of Spanish Law inherited by Mexico is that of the Roman Law "*riparum proprietatis illorum est quorum praedios haerent.*"

The banks of the river in the public domain are subject, nevertheless, to "the common use," or, as the jurist Pallares says, "to an easement of traffic and navigation for the benefit of all those who make use of the rivers"; but we desire to emphasize the point that the ownership of these banks belongs to the owners of the lands bordering on the river. This concept was clearly defined in the Civil Code of 1870, Article 802, Section V of which declares that the banks of navigable rivers are of common use "to the extent that this use is indispensable to navigation."

X. This easement of traffic and navigation has never, as a matter of fact, been exercised only along the banks of the rivers; that is to say, along those zones which the water covers and uncovers. In the times of high water one must necessarily invade an additional zone either to load or unload boats, or to make progress when towing or for other uses. Before the Law of December 18, 1902, no law had recognized and defined in Mexico this situation which arose from the very nature of things; and this omission was clearly due to the scarcity of navigable or floatable rivers and to the smallness of the population of the territory, owing to which the necessity of defining legally the above-mentioned situations was not perceived. The first legislative act which treated of this matter is the Law of December 18, 1902, above mentioned.

It is certain that theretofore the Law of Vacant Lands of the 20th of March, 1894, had prohibited the transfer of any zone of ten meters in width along the banks of navigable rivers and five meters along floatable rivers; but this prohibition solely referred to cases in which the Federal Government had the ownership of the lands adjacent to rivers. This last-mentioned law provided for the alienation of vacant lands (*baldios*), but prevented the alienation of the above-mentioned zones of ten and five meters, respectively.

XI. From the foregoing it follows that the existing legal situation up to the time of the Law of December 18, 1902, which established the Federal Zone, was the following:

(a) The waters of rivers and the beds and mouths thereof (meaning rivers with permanent currents of water) were considered as being of the public domain and of common use, except in cases where grants of land had also included permanent water courses.

(b) When these rivers were navigable or floatable they were subject to the jurisdiction of the Federal authorities.

(c) There were also subject to Federal jurisdiction, even where they were not navigable or floatable, such rivers as served as boundaries of the Republic or between two or more States.

(d) The banks of rivers belonged to the owners of the adjacent properties; that is to say, they formed an integral part of the private property of the owners of such estates.

(e) Such banks (speaking of rivers within the public domain) were subject to an easement for the benefit of the public; that is to say, to the common use. The manner of exercising this right was subject to police regulations as happens in any case relating to the common use of a given thing.

(f) Waters which were not permanent in their nature belonged to the owners of the tracts through which they ran, but were subject to special dispositions with regard to the use of such waters.

(g) The beds or bottoms along which ran the waters mentioned in subdivision (f) formed an integral part of the properties in the same manner as the banks of such waters, and were included in the titles of ownership of such tracts.

XII. Let us now examine in what sense this legal situation described in Paragraph XI was modified by the Law of December 18, 1902.

It has already been stated that the above-mentioned law established so-called "Federal Zones" along rivers within the Federal jurisdiction, that is to say, navigable or floatable rivers or such as, without being in these classes, serve as boundary lines for the Republic or between two States thereof.

These "Federal Zones" are classified by this law as being among those goods which are "in the public domain or of common use,"—and thence has arisen the discussion as to whether such "Federal Zones" formed at the expense of individual property, as we have seen, became owned by the Nation by a mere declaration of appropriation contained in the law.

As the law uses the expression "public domain or of common use" the question has also been discussed whether this last concept, "common use," is the one which truly determined the new legal condition given to the lands which constitute these zones.

The courts have not defined up to the present time the true meaning of the law; but it is doubtful whether it can be interpreted in the sense of sanctifying an arbitrary dispossession. "The property of individuals can not be taken without their consent," says Article 27 of the Constitution of 1857, except in one case, when the occupation is based upon reasons of public utility and the owner has been previously compensated.

If these two circumstances do not occur, private property is inviolable, and it can not be admitted that a secondary law, such as the one of December 18, 1902, violates a precept of the Constitution itself.

Therefore the Law of 1902 must be interpreted in this sense: That in creating the Federal Zones the law limited itself to fixing the extension along the length of rivers within the Federal jurisdiction of the zone of common use; that is to say, of the zone which from necessity arising from the very nature of things has always borne the burden of the easement of traffic and navigation. This easement has not only been exercised along the banks, but has also, as a matter of fact, extended itself further without the law having fixed the limit of this greater extension (Paragraph X).

The Law of December 18, 1902, ended this uncertainty, giving to the zone where in this the easement might be exercised (that is to say, the zone of common use), a width of ten meters.

XIII. By virtue of what has been stated in Paragraph XII, it may be said that the legal situation described in Paragraph XI suffered by reason of the Law of December 18, 1902, one sole and only modification: That in rivers of the public domain subject to Federal jurisdiction, the zone within which the easement of traffic and navigation could be exercised, became fixed at ten meters; and in some cases at twenty meters, as has been explained at the beginning of Paragraph II.

Note that we are speaking of rivers of the public domain subject to Federal jurisdiction—that is to say, those which were navigable or floatable or which served as a boundary between two or more States (Paragraph IV).

Other rivers of the public domain which might exist in the territory of the Republic remained outside of the Federal jurisdiction and were subject to the legislation of the States.

XIV. Such being the condition of affairs, Congress issued a new law covering waters of Federal jurisdiction, dated December 14, 1910. Previously, in the year 1908, there had been adopted an amendment to the Constitution which gave Congress power to define what were the waters of Federal jurisdiction and to make laws concerning their use and availability.

This constitutional amendment which was adopted in view of the necessity of solving the acute problem of irrigation in Mexico gave Congress an unquestioned power to place under Federal jurisdiction waters which previously had been under the jurisdiction of the States. Said Law of December 14, 1910, which was an application of the Constitutional Amendment, partly changed the classification established by the Law of June 5, 1888, mentioned in Paragraph IV.

As stated in the Law of December 14, 1910, there became subject to Federal jurisdiction in addition to the waters of the territorial sea:

- (a) Those of the esteros, lakes, and lagoons which communicate with the sea.
- (b) Those of all watercourses whose beds are found along the boundary line between the territory of the Republic and neighboring country.
- (c) Those of the watercourses and bodies of waters in general which served as a boundary between two States or which pass from one State to another.
- (d) Those of the direct or indirect tributaries of the waters referred to in subdivisions (b) and (c).

(The law enumerates certain other classes of water which bear no relation to the matter now under consideration.)

This Law of December 14, 1910, operated in full substitution as to classification of waters of Federal jurisdiction of the Law of June 5, 1888 (Paragraph IV), which in those parts was expressly repealed by the Law of 1910.

In consequence, rivers and esteros were no longer subject to Federal jurisdiction merely because they were navigable or floatable.

In order that a river should be subject to Federal jurisdiction, it is necessary, essential, and indispensable that its bed shall serve as a boundary of the Republic, or shall be a boundary between two States, or that it shall pass from one State to another, or that it shall be a tributary of one of the foregoing.

If it does not include the above-mentioned conditions, no river is subject to Federal jurisdiction.

Therefore, a navigable river which runs solely within the territory of a given State is not within the Federal jurisdiction and the "Federal Zone" established by the Law of December 18, 1902, ceased to exist.

Respecting "esteros," the question of navigability is also immaterial in order to fix the jurisdiction to which its waters are subject. In order that these waters shall be within the Federal jurisdiction it is necessary that the estero communicate with the sea; that is to say, that it shall be truly a small arm of the sea.

XV. It is very important to note that the Law of December 14, 1910, as well as the Constitutional Amendment upon which it was based, solely refers to the jurisdiction to which any given watercourse is subject, and that this jurisdiction is only exercised with relation to the use and availability of such waters.

That means that in order to use or to take benefit from waters of Federal jurisdiction, it is necessary to comply with the precepts of the Federal Law.

But neither the law nor the Constitution changed in any form the titles of ownership of individuals over the channels and banks of these waters. Such titles of ownership remained in full force and vigor as defined by the Civil Law.

XVI. The existing legal situation after the adoption of the law of waters of December 14, 1910, until the Constitution of 1917 was promulgated is then substantially the same as that described in Paragraph XIII, modified only to the extent that the waters of rivers in order to be of Federal jurisdiction must of necessity run along international or interstate channels, all question as to whether the river is navigable or floatable being wholly abandoned.

XVII. The Constitution of 1917 establishes in Article 27 that the waters of lakes and esteros of the beaches, those of lakes connected directly to perpetual watercourses, those of the principal or tributary rivers from the point at which first permanent current is found to the mouth, provided that they run to the sea or cross two or more States, are the property of the Nation; as is also the case with the waters which are intermittent but which cross two or more States, and those which run along channels which serve as a boundary between the Republic or between two States.

As is seen, the new Constitution does not limit itself to defining waters over which the National or Federal Authorities may exercise jurisdiction, but it declares such waters are the "property" of the Nation.

Thereafter Article 27 declares that the channels, beds, and banks of such waters are also the property of the Nation to the extent that the law may determine.

The law which has just been alluded to—that is to say, the law which fixes the extension of land which must be considered as a channel, bed, or bank and which is the property of the Nation—has not yet been adopted.

Therefore, in order to fix the channels, beds, or banks, one must look at existing laws; and the only one which is applicable is that of December 18, 1902, which fixes as a limit of the bank the line of the highest water (Paragraph I).

Therefore, if we admit that the new Constitution could despoil the owners of bank lands of their right of ownership as to these banks, and eventually over the channels, this despoliation can not extend further than the line of the highest water.

The Federal Zone which relates to such waters continues to be, in consequence, the same as that defined by the Law of December 18, 1902, and has no different ends or purposes than those fixed by said law.

The new Constitution does not declare such "Federal Zones" to be the property of the Nation.

XVIII. If we assume that the Constitution of 1917 could lawfully despoil individuals of their preexisting rights of ownership, the situation which we are then interested in defining is the following, according to the laws in force in Mexico:

The Nation owns the channels, beds, and banks up to the limit of the highest waters:

(a) Of the lagoons and esteros of the sea beach.

(b) Of the lakes which are connected with permanent watercourses.

(c) Of the rivers and their tributaries up to the point where the first permanent water commences to flow down to the points where they discharge into the sea.

(d) Of the permanent or intermittent rivers which cross two or more States.

(e) Of those which serve as boundaries of the National territory or between two States.

All bodies of water above enumerated enjoy the zone of ten or twenty meters in width from the line of the highest waters to which the Law of December 18, 1902, refers, but this law not having been changed, said zone constitutes solely an easement for the common use as has been explained in Paragraphs IX and X; but it never can be claimed that this zone—the Federal Zone—is the property of the Nation. This continues to be a part of the river-bordering tracts, because as to this point former laws existing prior to the Constitution of 1917 have been in no wise modified.

XIX. If we admit that the Nation is able to make itself the owner of the beds and banks described in the foregoing paragraph, we must conclude that the Nation may dispose in principle of the oil which is found in the subsoil of such beds and banks, but it can not dispose of the subsoil of the Federal Zones because the latter have never been a part of the National property, nor do they belong to the Nation under the provisions of the Constitution of 1917.

Taking the foregoing as a basis of our judgment and applying it to each one of the concessions to exploit petroleum which has been issued, we may reach a conclusion in each concrete case when such a concession goes further than that permitted by the principles established by the Constitution of 1917.

XX. One other question must be decided which, although apparently one of form, is of great importance in determining the validity of these concessions, even though they are within the scope of the Constitution of 1917.

Such concessions have been issued by virtue of an "Acuerdo" dictated by President Carranza, under date of March 12, 1920, and of a circular numbered 10, dated April 21, 1920. Neither of these documents has any legal validity for the following reasons:

(a) The "Acuerdo" of March 12, 1920, as it appears published in the *Diario Oficial* of the Federation, is signed only by V. Carranza. In consequence it has no constitutional value and "shall not be obeyed," as is provided by Article 92 of the Constitution of 1917 in the following terms:

"All rules, decrees, and orders of the President must be signed by the Secretary of the Department having charge of the branch to which the matter belongs, and without these requisites shall not be obeyed."

(b) Circular No. 10 of April 21, 1920, as it appears published in the *Diario Oficial*, is said to be issued by the Department of Industry, Commerce, and Labor, and is signed only by the Chief Official in charge of the office, J. Vasquez Schiaffino. Therefore this circular, which possesses the character of a regulation, lacks any constitutional validity since the regulative power is conferred by the Federal Constitution upon the President of the Republic, and not upon principal officials in charge of a department, as is provided in Article 92 above cited, and in Article 89, Section (I), which says:

"The powers and duties of the President are as follows:

"(I) To promulgate and execute the laws issued by the Congress of the Union, providing for their exact observance in the administrative sphere."

XXI. The manifest object of the Acuerdo of Carranza was to strike at the oil companies which were operating upon lands which they have the right to legally exploit. This appears from the recitals 3rd and 4th of the above-mentioned Acuerdo, which are as follows:

"3rd. That the regions actually known as oil bearing are crossed by numerous rivers, arroyos, esteros, lakes, and swamps of Federal jurisdiction, whose exploitation for the purpose of producing oil may give rise, if conceded to individuals or companies organized in accordance with Mexican laws, to large revenues for the National treasury, flowing from the rents and such just and equitable participation as may be provided in the concession.

"4th. That such oil-bearing regions are being intensively exploited to such an extent that the rapid exhaustion of the pools of oil is certain, as has already taken place in the region known as 'Chinampa,' without giving to the Nation the just profit which it would have received if it had permitted the drilling of wells in the Federal Zone of the rivers, arroyos, esteros, etc., of Federal jurisdiction which cross it."

XXII. Lastly, inasmuch as Congress has not issued laws making effective Article 27 of the Constitution, the executive power has no right to supply legislative mandate.

The executive power can only grant concessions when Congress, using the power which Section 31 of Article 73 of the Constitution gives it, authorizes the Executive to do so through the adoption of a law. Said Section 31 authorizes Congress to issue all laws which are necessary in order to render effective the powers of Congress and all others granted by the Constitution to the other branches of the Government. This point was taken from the American Constitution and has in Mexico the same meaning and the same scope as in the United States. It is therefore apparent that the Government has no power to grant the concessions which we are considering, even though such concessions do not violate individual rights.

XXIII. In conclusion, the following may be said:

(a) In the greater number of cases these concessions violate property rights because they refer to channels owned by private individuals as part of the tracts in which they are found.

(b) When these channels are not the property of individuals, such concessions violate private rights, because they extend to the banks which are always the property of the owners of the tracts running along the rivers.

(c) In any case, concessions violate private rights by being extended to the so-called "Federal Zones," because this term, speaking of waters of Federal jurisdiction, involves only the imposition of an easement, of common use, which does not alter the basis of the right which the owner of the land has in respect of the land.

(d) If the validity of the Constitution of 1917 and of the precept of Article 27, which declares the subsoil of the country to be the property of the Nation, is admitted, even so the concessions which have been considered are illegal, because they are issued without the adoption by Congress of any law which carries into effect said Article 27.

MANUEL CALERO.

NEW YORK, December 19, 1920.

VALIDITY OF FEDERAL ZONE CONCESSIONS.

Statement of Lic. Manuel de la Peña.

[Translated from EL UNIVERSAL, December 26th, 1920.]

"Referring to this matter," said Mr. de la Peña, "El Universal resorts to an old argument which it has ill-digested and which starts from a false premise.

These arguments may be summarized as follows:

The Federal zones are properties of public domain and are destined to common use. Such properties can not grant usufruct, use or habitation to the exclusive benefit of private parties.

The Federal Government holds them, to be administered and exclusively dedicated to the general uses to which the whole world is entitled. * * * The rivers throughout the entire course of their channels, as well in a zone of ten meters in width from the high-water mark, constitute a federal zone in which everybody has the right to pass, and in no way a real property of the nation.

Such is the argument, and from it the inference is drawn that it is unlawful to grant concessions of any kinds on these zones, concluding with this sentence: if the portion enjoyed by the Government is subject to question, what can be said of the gift that is being made to concessionaires?

Analyzing the argument, I agree with the statement that the federal zones are of public domain, as are the mineralized deposits of the subsoil, and that no usufruct or habitation lies on them. I can not admit that private enjoyment of these properties by concession is forbidden, because this is denied by several laws, some of which I shall enumerate. In this demonstration, I do not care to go back to Roman and Spanish law, because it is not in place here. To show the power in the executive to grant concessions on these zones, it will suffice to cite the following constitutional laws:

I. That of June 5, 1888, which authorizes the public and private use of rivers, lakes, etc. This statute in Section B. sets forth the respect of private rights to these waters, and Section C. authorizes the grant of concessions to those waters that are national property and of common use.

II. The petroleum law of December 24, 1901, which permits oil development on national lands, lakes, etc., properties that are all of public domain and common use.

III. The law of federal immovables of December 18, 1902, Article 4 of which enumerates these properties, article 7 prescribes the enjoyment of waters by concession, and Article 15 authorizes the grant of licenses or concessions to enjoy the properties of public domain by competent authority, on the understanding that they create no real right and are temporary.

IV. The law of December 13, 1910, which declares that rivers and tributaries are of federal jurisdiction. Article 2 of this law declares federal waters to be of public domain and common use, and in spite of this authorizes the grant thereof to individuals or corporations, and regulates the manner of granting such concessions.

It is evident, therefore, that properties of public domain and common use are susceptible of enjoyment by individuals or corporations legally constituted, and that the power to grant them throughout the whole Republic in mining, including petroleum, is sanctioned by Article 27 of the constitution, paragraphs 4 and 6, and by Article 7, which gives Mexicans and Mexican companies the right to petition for such concessions.

It is, therefore, perfectly legal to grant concessions on federal rivers and wholly and entirely incorrect to say that this zone is destined exclusively to general transit, and a legal absurdity to sustain that it is not a federal immovable."

ZONE CONCESSION PROCEDURE SUSPENDED—"DENOUNCEMENTS"

CONTINUED.

[Translated from EXCELSIOR, Dec. 14, 1920.]

"With a view to determine the conditions to be complied with by applicants for concessions to explore and develop petroleum and other hydrocarbons to be found within the bounds of the national territory, by order of the Secretary

of Commerce and Labor all action on applications relating to this matter is from and after this date temporarily suspended."

"When once the proposed measure of the Petroleum Bureau submitted on September 20th last to the effect that applicants shall give bond for the fulfilment of the obligations contracted with the Department has been studied, or the conditions governing the exploration and exploitation of petroleum by the law regulating Article 27 to be enacted by Congress, applicants will be informed of the conditions with which they must comply in order that their applications should be favorably acted upon."

In explaining the scope of this ruling, the Secretary stated:

"What is hereby suspended are concessions to explore and exploit, but not denouncements (entries) which will continue to be acted upon, in accordance with the provisions now in force."

ESTABLISHMENT OF PETROLEUM ADVISORY BOARD.

REGULATIONS OF JULY 16, 1920.

President de la Huerta signed July 16th a resolution to establish a consulting board (Junta Consultiva), under the direction of the Secretary of Commerce, Industry and Labor, who will preside over the board, and four members, two of whom will be lawyers and two engineers. This board will analyze proposed laws bearing upon petroleum, will investigate controversies which may arise in relation to the subject, and will endeavor to develop the industry.

NOTE.—These regulations have been entirely abolished.

TAXATION.

DECREE OF APRIL 13, 1917.¹

[With amendments of December 29, 1919.]

WHEREAS the production of petroleum in the republic through the great development it has attained in the last few years should constitute a source of revenue for the Federal Treasury which shall bear a just relation to the great profits obtained by the oil companies or enterprises; and

WHEREAS it is expedient to exempt from the special stamp tax the petroleum consumed within the republic, so as to encourage industries by facilitating the acquisition of abundant and economical fuel; and

WHEREAS the quality of the petroleum produced in the republic differs greatly, and accordingly varies in commercial value, a tax, to be reasonable and equitable, should be based on the value of each product; and

WHEREAS a considerable quantity of this liquid is not utilized because of the lack of precautions in prospecting and in daily handling, thus causing frequent losses not only to the companies interested but also to the Federal Treasury by reason of the duties not collected;

NOW, THEREFORE, I, Venustiano Carranza, First Chief of Constitutionalist Army, in charge of the executive power of the Nation, in the exercise of the powers with which I am invested, have seen fit to issue the following decree:

ARTICLE 1. All crude petroleum of domestic production, as well as fuel oil not intended for consumption in the country, shall be subject to a tax of ten per cent (10%) on the value of the net ton, as hereinafter provided:

¹ NOTE.—The Decree of April 13, 1917, on taxation, has been superseded by a Decree of May 24, 1921, on the same subject, effective July 1, 1921. A Decree of June 7, 1921, effective July 1, 1921, imposes a specific tax on petroleum.

A. The Department of Finance shall fix every two months, as prescribed in Article 4, the value of crude petroleum and fuel oil on the theoretical gravity of 0.91.

I. To compute the value of crude petroleum and fuel oil twenty centavos shall be deducted for each increase of one-hundredth in gravity, including in this classification crude petroleum of 0.965 gravity and fuel oil of 0.97 gravity.

II. To compute the value of crude petroleum and fuel oil of a gravity less than 0.91 forty centavos shall be added for each decrease of one-hundredth in gravity.

III. The Department of Finance shall fix every two months the value of crude petroleum of over 0.965 gravity and the value of fuel oil of over 0.97 gravity.

B. Products derived from the refining of crude petroleum and from the refining of gas from wells not intended for domestic consumption shall be subject to a tax according to the following schedule:

Refined gasoline and refined kerosene—three per cent ad valorem.

Crude gasoline and crude kerosene—six per cent ad valorem.

Lubricants 0.0025 pesos per liter.

Paraffine 2 pesos per ton.

Asphalt 0.25 pesos per ton.

Gas five per cent ad valorem.

The Department of Finance shall fix every two months the valuations of gasoline and kerosene, using as a basis the prices obtained in the City of New York during the previous month.

C. The following shall be subject to the payment of taxes, in accordance with the previous schedule:

I. Petroleum intended for the use of tug-boats and tank steamers employed in export service;

II. Crude petroleum and its derivatives, when wasted in any quantity either through carelessness or non-compliance with the legal provisions shall be subject to a rate double that governing similar products;

III. Products derived from the natural gas of wells when wasted for the same reasons.

ARTICLE 2. The following products shall be exempt from this special stamp tax, excepting that corresponding to sales under the Law of June 1, 1906:

A. All crude oil consumed within the Republic either through sales or use in exploration or development work in fields or terminals of the companies; all crude oil delivered to refineries in the country to be refined or for fuel purposes; all crude oil used by steamers or tugs devoted to coastwise trade; and, in general, all crude oil of domestic production used in any form within the Republic.

B. All products derived from crude petroleum of domestic production of whatever name or nature, sold or used in any form within the country, provided they have been treated in domestic refineries, in fields or terminals of the companies, irrespective of the process employed.

C.¹ All petroleum required by national vessels for their use.

D.¹ Samples of all kinds of crude petroleum, fuel oil, gasoline, kerosene, gas oil, lubricants, paraffine, or asphalt, provided the value of any one product does not exceed ten pesos, basing the value on the prices fixed every two months by the Department of Finance and Public Credit.

ARTICLE 3. For the purposes of the present decree, crude petroleum shall be understood to be the natural product as it comes from the wells or deposits, provided it does not contain more than 1% water and sediment; if it should

¹As amended December 29, 1919.

contain a greater proportion of water and sediment, any excess over the 1% above mentioned shall be deducted from the total weight in making the liquidation of the tax.

The term fuel oil shall include all products, solid or liquid, derived from crude oil, whatever be the process employed, whether mechanical, natural or chemical, which shall result in the separation of one or several of the substances which compose the original product. The separation of the water contained in petroleum is hereby excepted, provided it be done without the assistance of heat which would cause the disintegration of any of the component parts of the crude oil.

Crude gasoline is the distillate corresponding to this product which has not been subjected to re-distillation and purification by the use of acids or alkalis. Crude kerosene is the distillate corresponding to this product which has not been subjected to re-distillation and purification by the use of acids or alkalis. Refined gasoline and kerosene are products that have been treated by re-distillation and purification by the use of acids or alkalis.

Fuel oils shall be understood to be liquid products derived from crude oil or mixtures of petroleum from which certain oils have been separated for the purposes of reducing the flash point. Fuel oils shall be included in the term refined oils, having, however, a special classification for tax purposes.

ARTICLE 4. In order to establish the tax which under Section A of Article 1, corresponds to each of the products derived from petroleum, the Department of Finance shall fix every two months the prices of the said articles at the ports of shipment, striking an average of the values obtained during the preceding month. The manifests or invoices submitted by the companies for sales of the said articles within the republic shall serve as a basis for making this computation. In the absence of sales within the Republic, the average price obtained for these products in New York City or other ports of the United States during the previous month shall be taken, deducting therefrom the cost of transportation from Mexican ports to foreign ports. In the absence of reliable data for making the foregoing calculation, a price equal to that which obtains in the United States for similar products shall be fixed, in so far as their natural properties are concerned, using this price as a basis for the tax.

ARTICLE 5. All amounts due the Federal Treasury under the present decree shall be payable in National Gold.

TRANSITORY ARTICLES.

ARTICLE 1. All laws, regulations and provisions in conflict with the present decree are hereby repealed.

ARTICLE 2. This decree shall take effect on May 1, 1917.
Mexico City, April 13, 1917.

(Signed) VENUSTIANO CARRANZA.

REGULATIONS OF APRIL 14, 1917, FOR THE STAMP TAX ESTABLISHED BY THE DECREE OF APRIL 13, 1917 (WITH AMENDMENTS OF MARCH 8, 1918).

CHAPTER I.

OF THE TAX AND OF COMPANIES SUBJECT THERETO.

ARTICLE 1. The stamp tax established by the decree of April 13, 1917, on crude and refined petroleum shall go into effect on May 1st of the present year.

ARTICLE 2. For the payment of the said tax ordinary revenue stamps shall be used. These stamps shall be coupon stamps, and shall be redeemable as provided in ARTICLE 8 of these Regulations.

ARTICLE 3. The basis for the payment of the tax on crude petroleum, fuel oil, and products derived from the refining of crude petroleum and the use of gas, whatever be the process employed, shall be fixed every two months by the Tax Bureau of the Department of Finance and Public Credit. In fixing the basis of payment neither the natural yield of the wells or deposits nor the crude or refined petroleum and their derivatives consumed or used in any form within the Republic shall be taken into account.

CHAPTER II.

RETURNS (MANIFESTACIONES) AND COLLECTION.

ARTICLE 4. The officials, managers and administrators of companies established on and after May 1st of the present year for the purpose of developing and refining petroleum, after they have been organized and before they begin to operate or on the third day at the latest, shall file with the proper Fiscal Petroleum Inspector a written notice containing the following information:

I. Name or firm name of the company and the location of its office, at the place where the Fiscal Inspector resides;

II. Name of the company's representative to act as intermediary between it and the Inspector;

III. Capital stock of the company, expressing clearly the purposes for which it is organized;

IV. Names of the properties it owns, in fee or in leasehold, together with the maps and necessary descriptive data;

V. Number of producing wells, together with the present and potential production of each well;

VI. Number of storage tanks built at its terminals or ports of shipment, together with a table, showing the capacity of each, duly certified by the proper Fiscal Inspector;

VII. Number of tank steamers it owns, giving the name, tonnage etc of each, specifying clearly tanks designed for fuel for the ship's use, their capacity, the proper tables, plans and cuts of the several vessels, and, lastly, all necessary pertinent data;

VIII. Detailed plan of its terminals, showing the location of tanks, pipelines, valves, pumping stations, dwellings for employees, etc.

The above-mentioned notice shall be given in triplicate, one copy being returned to the interested party with the notation of the date of filing; the second copy shall remain in the possession of the proper Fiscal Inspector for registration purposes; and the third copy shall be forwarded by the interested party to the Department of Finance. Companies complying with a portion of these requirements shall be under the obligation of submitting the missing data within a reasonable time to be fixed by the proper Fiscal Inspector; they shall likewise be obliged to perfect or revise all data previously filed with these officials.

Should the data requested have already been filed by the company with another Department, this fact shall be stated. The company shall then be relieved of the obligation of filing the data anew, the Fiscal Inspector being under the obligation of obtaining it from the Department in question.

ARTICLE 5. The officials, managers or administrators of "producing companies" shall file in the Fiscal Offices within the first ten days of each month, the following documents:

A. A statement of the movement of crude and refined petroleum during the previous month ;

B. A detailed list of the wholesale and retail prices at which the various products have been sold or quoted during the previous month.

ARTICLE 6. The Fiscal Inspector receiving the above returns (manifestaciones) shall note thereon the date of filing, and shall proceed to verify the accuracy thereof at the time of filing, or, at the latest, before the fifteenth of the month in which they were filed, provided they had been filed within the periods prescribed by these Regulations.

Should the quantities reported by the company not conform with the amounts measured and computed by the Fiscal Inspector, the companies shall be notified, in order that an opportunity may be afforded them to correct the same ; in this event, the date of filing shall be that on which the corrected return shall have been made. Should the company refuse to correct its return, through inconformity with the difference found, the Fiscal Inspector shall make a notation at the bottom of each copy, indicating the amount which in his judgment has not been returned ; he shall remit, under separate cover, to the Tax Bureau, the documents and calculations on which his decision is based, so that the proper assessment may be made and the corresponding fine levied. If, however, the amounts returned by the company agree with the data in possession of the Fiscal Offices, the date on which the returns are filed shall be noted at the end thereof, and a note setting forth the page of the book on which the figures of the company have been entered ; notice shall then be given forthwith to the interested parties, so that they may recover their documents duly recorded.

The representative or agent of the company charged with making payments shall submit the above documents, together with the check or certificates with which payment is to be made, to the Tax Bureau. This Bureau, after revising them, shall send them in the regular course of business to the General Stamp Tax Office, after receiving the approval of the Minister of Finance. The General Stamp Tax Office, on receiving the returns and the amount of the tax, shall affix the stamps corresponding to the payment, adhering and cancelling the stamps proper on one copy, and the coupons on the other.

ARTICLE 7. Should a company omit an amount from its return and this omission not have been noted until after the returns have been forwarded to the Tax Bureau, the Fiscal Inspector may authorize the company to include this amount in the return for the following month, if, in his judgment, there has been no fraud, so that the company may not be liable to a fine, and so that the Government may not fail to receive the proper tax. If this amount be not entered in the following month or another amount be omitted, the corresponding notation shall be entered at the end of the return without notifying the company, and the documents necessary to prove the error forwarded to the Department, so that the proper fine may be levied and the collection made.

ARTICLE 8. The interested parties, upon notice from the Tax Bureau, shall go to the General Stamp Tax Office and recover the copy of the return to which the originals of the stamps have been affixed, and shall keep the same in order to prove at all times payment of the tax. The copy showing the last payment shall be kept in a visible place in the office or shop.

ARTICLE 9. Firms or companies engaged in the petroleum industry in several fiscal zones shall file as provided in ARTICLE 5, a separate return for each zone.

ARTICLE 10. In the event of the transfer of an oil company, change of owner, operator or representative, as well as in case of the removal of offices or business centre or the discovery of new deposits, written notice shall be given to the respective Fiscal Inspector, so that he may make the proper notation, on the

understanding that failure to give notice of transfer will render the new company jointly responsible for the delinquencies in tax payments incurred by its predecessors in title and for the penalties accruing for such delinquencies.

ARTICLE 11. The suspension for any reason of the work of extracting or refining petroleum shall likewise be communicated in writing to the Fiscal Inspector and return filed covering products obtained up to the date of the closing or suspension. The Fiscal Office, after it has satisfied itself that the suspension or closing has been effected, shall liquidate the tax, noting on the register the necessary information. Oil companies shall only be regarded as closed when they have completely ceased production or refining, have exhausted their stocks, and have ceased to carry on the operations on which the tax is based. Before the closing of a well is effected, the valves shall be screwed down and sealed, the company being responsible for the breaking of the seal, to which end it shall establish the necessary watchmen. Should the company have petroleum in tanks or storage deposits, it shall continue to file with the Fiscal Offices a monthly report of the amount of stock, in order to justify loss suffered through evaporation or any other cause, and shall likewise submit all other documents required in ARTICLE 5. In any event, so soon as a well, refinery or petroleum concern is declared closed, a statement in triplicate shall be drawn up with all the formalities of law, and signed by the representative of the company, Fiscal Inspector and two witnesses; each of the interested parties shall keep a copy, the third copy being forwarded to the Stamp Tax Bureau of the Department of Finance.

ARTICLE 12. So soon as a company resumes operations after suspension, it shall notify the Fiscal Inspector, and shall duly file the return required under ARTICLES 4 and 5.

ARTICLE 13. All companies producing or refining petroleum shall be required to forward the lists of prices provided in Section B of ARTICLE 5.

These lists shall serve as a basis for fixing the tax rate for the following two months. Should any company submit a false list of prices, and this fact be proved, it shall be fined from one hundred to five hundred pesos, and shall be subject to valuations fixed by the Tax Bureau.

ARTICLE 14. Should any company persist in keeping secret its sales prices, whatever the cause alleged for such action, it shall be forbidden from exportings its products, so long as it persists in this attitude. In fixing the price of any article, the average price of all similar articles sold by the different companies shall be taken; should the information furnished by the latter not be sufficient or reliable in establishing the price of the articles, the price of such articles in the ports of Tampico, Tuxpam and Puerto Mexico shall be taken. Should it not be possible to obtain this figure, the price of similar articles in United States ports shall be taken, after deducting the freight.

CHAPTER III.

BOOKS.

ARTICLE 15. Companies subject to the payment of oil taxes shall keep in a book certified gratis by the Stamp Tax Offices a special account in which they shall enter day by day the amount of petroleum extracted from the wells or deposits, and in a separate column the amount intended for export and hence subject to taxation. Companies having account books authorized by the Law of June 1st, 1906, shall enter, in addition to the account or accounts corresponding to that of "General Merchandise", the movement of products; on

the understanding that the number of metric tons shall not be omitted either from the statement of oil extracted from wells or from the item of outgoing merchandise.

ARTICLE 16. Entries relating to the above account shall be duly made so that in no case shall more than fifteen days elapse without entering all the data in this account.

ARTICLE 17. For the revision of the books of the companies the Fiscal Inspector shall appoint preferably an assistant; this shall not forbid the Fiscal Inspectors themselves from making the inspection whenever they deem it advisable.

ARTICLE 18. The employees charged with verifying on the books the correctness of the returns of the oil companies shall examine the special account mentioned in ARTICLE 15 for the period being examined, and shall take into account the amounts of petroleum exported, according to permits issued by the respective customs houses. If the employees should be in possession of facts showing inaccuracy in these entries, or if he should find them interrupted for more than fifteen days, he shall be authorized to demand the exhibition of the statements or reports received by the companies from their fields, as well as all documents he considers indispensable in ascertaining the exact amount which should serve as a basis for the payment of the tax.

CHAPTER IV.

PROCEDURE.

ARTICLE 19. In order to prove, as provided in the foregoing Article, the amount of crude or refined petroleum exported, the companies shall receive the "O. K." of the Fiscal Inspector on each statement of weight which they shall make on the departure of any oil tanker.

Should the Fiscal Inspector find any difference or error in the calculations of a company, he shall return the statement so that it may be filed anew.

These statements shall be delivered in triplicate, two copies to the interested party and the third kept for the files of the Fiscal Office. In the case of the shipment of refined petroleum or any of its products, either in closed boxes, drums, etc., a special statement shall be made, setting forth in detail the shipment made, the number of net liters or kilos on which the tax is to be figured, as well as the commercial value of the product at the port of shipment.

ARTICLE 20. In the event of losses of petroleum through accident or any other cause, not calling for the exemption from the tax, this shall be proved by means of the statements periodically forwarded to the respective Fiscal Inspector, setting forth their stocks; but if these statements do not contain sufficient data to make the computation, resort shall be had to the books of the company.

ARTICLE 21. Should the entries be interrupted during the period to be computed for proving the respective loss, or if the tax-payers lack the books they are called upon to carry, and it be impossible to ascertain by other means the basis for the payment of the tax, the Fiscal Inspector, taking into account the size of the company, the capacity of its fields, and other data he may acquire, shall fix the amount of petroleum upon which the tax shall be paid.

ARTICLE 22. In the case prescribed in the foregoing article, if the interested party accept the basis fixed by the Fiscal Inspector, he shall immediately pay the amount assessed as provided in these Regulations.

Should he not accept, he may name an appraiser to report on the matter, on the understanding that if he shall assign a basis greater than that fixed by the

Fiscal Inspector, this basis shall be taken as definitive without further appeal; but if the basis be smaller, a third appraiser shall be mutually agreed upon, whose report shall be final, unless he shall fix an amount smaller than that given in the returns; in which event the amount declared by the tax-payer shall subsist.

ARTICLE 23. The appointment of an appraiser by the tax-payer shall be made within three days from the date on which he has been notified by the Fiscal Inspector. If on the expiration of this term, the interested party shall fail to appoint his expert or if he refuses to appoint him or to intervene in the designation of a third expert, the basis fixed by the Fiscal Inspector shall subsist without appeal. All fees of appraisers shall be for account of the tax-payer.

ARTICLE 24. Should no returns be filed, and if in spite of the notice the tax-payers refuse to file them, the foregoing articles shall be observed, so far as applicable, in ascertaining and determining the yield on which the tax shall be paid.

ARTICLE 25. A refusal on any pretext to submit books or returns to verify the exactness of the returns or to ascertain any other fact in connection with taxes to which the foregoing provisions refer shall render the tax-payers liable to a fine of five hundred dollars national gold, if, despite this fact, the refusal cannot be overcome, the case shall be consigned to the respective district judge for the application of the proper penalty, pursuant to ARTICLE 904 of the Penal Code; this shall not impede the application of proper coercive measures to overcome resistance, enumerated in ARTICLE 27; notice, shall, furthermore, be given to the customs authorities of the port, to the Petroleum Agents of Fomento, and to all other offices that have or may have official business with the said company, so that action thereon may be suspended, until the resistance of the rebel company be overcome.

ARTICLE 26. The circumstance that through lack of books or of accurate information as to products liable to taxation, through the interruption of entries, or through the appointment of experts, the products have not been computed as provided in ARTICLE 21, shall not act as a bar to increase the basis of payment fixed by either method, if after the entries have been brought up to date or accurate information obtained it should be proved at any time that the amount on which the tax was collected was less than the real amount; in such event, the difference shall be collected without penalty.

CHAPTER V.

PENALTIES.

ARTICLE 27. In applying the penalties for the infraction of the provisions contained in these Regulations, the Fiscal Petroleum Inspectors shall have the following powers:

I. To forbid the loading of any oil tankers of which no notice has been received;

II. To hold up any oil ship after it has been loaded, wherever this step is necessary, to compel the company to comply with the requisites of these Regulations, or with provisions issued by the Department of Finance;

III. To compel the unloading of petroleum loaded without knowledge of the Inspector;

IV. To chain the valves and secure them with padlock, the keys of which shall be retained by the Inspector, wherever there is ground for assuming that valves have been worked for fraudulent purposes.

The powers referred to in subheadings II, III, and IV shall only be exercised in extreme cases and on the strict accountability of the Inspector, who shall be solely liable to the Department of Finance if his procedure is not entirely justified.

ARTICLE 28. The omission of any of the notices required by these Regulations, or their presentation after the term set, as well as failure to comply with any other requisite or formality not specifically penalized in this Chapter, shall be punished with a fine of from one hundred to five hundred pesos, national gold.

ARTICLE 29. The same penalty shall be assessed when any requirement provided in ARTICLE 5 shall be omitted from the returns.

ARTICLE 30. Companies that fail to file the returns provided in these Regulations or that file them after the term set by law and do not pay the taxes due every two months shall be liable to fines assessed under the following schedule:

A. If the return be filed before the end of the month on which it should be submitted, the fine shall be 10% of the value of the tax due and payable in the month which the return covers;

B. If filed in the month following, the fine shall be 15%, and so on successively until a maximum of 25% is reached. If the tax should still remain unpaid, the coercive measures enumerated in ARTICLES 25 and 27 shall be resorted to;

C. Should the returns for several months not be filed when and as due, but be filed simultaneously, a fine shall be applied for each failure to make payment on each return, as provided in subheadings A and B of this ARTICLE.

ARTICLE 31. Oil companies not carrying the account stipulated by ARTICLE 15 and those not carrying in the account taking the place of that of "General Merchandise" the data required by these Regulations shall be liable to a fine of five hundred pesos national gold; this shall not excuse them from observing the provisions of ARTICLES 18 to 24 in fixing the basis of tax liquidation. The same penalty shall be levied when entries in this account shall fail to be entered for a longer time than that allowed by ARTICLE 16 of these Regulations.

ARTICLE 32.² Errors in the return or in entries in the above-mentioned account unfavorable to the Federal Treasury shall render the companies guilty thereof liable to a fine of 50% of the amount of the fraud. The same penalty shall be levied on companies which, for the purpose of avoiding taxation, pretend to have suspended work, or defraud the tax by any other means than those expressly provided and penalized in the Law of April 13, 1917, or in these Regulations; this shall not be a bar to prosecution should there appear grounds for suspecting that a crime has been committed.

ARTICLE 33.² Whenever petroleum is pumped into tanks at the same time as it is being delivered for export purposes to any ship or barge, or when it is pumped in after loading has been completed, without the Inspector having previously closed and measured the said tank, in the former event the petroleum pumped into the ship or barge shall be seized, and in the latter case the defrauding company shall be assessed a fine equal to the value of the petroleum defrauded. The same fine shall be levied when the vessel which loaded the unmeasured petroleum shall have cleared from the port from which the product is exported.

If the Government shall have no storage tanks nor be able to make use of the oil seized, it shall require the defrauding company to pay, by way of fine,

² As amended March 8, 1918.

to the General Stamp Tax Office in Mexico City an amount equal to the value of the petroleum defrauded. The Inspector, by such means as he shall have available, shall determine the amount that has been thus fraudulently loaded, assigning thereto the regular market price, or taking, if such be not available, the rate fixed by the Department of Finance for the collection of the tax.

CHAPTER VI.

GENERAL PROVISIONS.

ARTICLE 34. The Tax Bureau shall be charged with seeing that the Fiscal Petroleum Inspectors comply strictly with the provisions of these Regulations and that the observance and payment of taxes by those liable thereto be promptly and regularly made. It shall take the necessary steps to correct any omissions or excesses of which it have knowledge, notifying the Department of Finance, so that the guilty employees may be punished.

ARTICLE 35. The payment of petroleum taxes shall not exempt companies from paying the General Stamp Tax established by the Law of June 1, 1906; accordingly, companies shall be subject to the provisions of this Law as to sales and other contracts, acts, documents or operations taxed under the said Law.

ARTICLE 36. The introduction of steam into storage tanks without written permission from the Department of Fomento is hereby strictly forbidden.

For tax purposes, crude petroleum, into which steam has been injected, shall be considered as waste, and should therefore be measured, in order that the schedule rate may be applied. To this end, companies shall notify the Fiscal Inspector before injecting steam so that the necessary steps may be taken. After the operation has been completed, the tank shall be measured again, so that the amount of petroleum subject to the tax may be ascertained.

ARTICLE 37. In submitting claims for nonconformity with the decisions of the Fiscal Inspectors involving the payment of any amount, either by way of taxation or fine, the Fiscal interests shall first be assured. Without this requisite, no claims shall be admitted by the Department of Finance and Public Credit.

ARTICLE 38. The Department of Finance may revoke or modify rulings of the Fiscal Inspectors or may confirm them, if found legally correct; as to claims through nonconformity instituted through judicial channels, the provisions of the General Stamp Tax Law shall be observed in their pertinent portions.

ARTICLE 39. Fines levied under these Regulations shall be paid in full into the Federal Treasury, except in the case of denunciation.

Persons liable to the tax on crude or refined petroleum against whom fines have been assessed for the infraction of these Regulations who shall not be disposed to accept the amounts fixed or any other procedure of the Fiscal Inspectors, shall have the right to submit their claim to the Tax Bureau, so that the acts of the Inspector may be reviewed and the decision submitted to the consideration of the Minister of Finance.

ARTICLE 40. Any person may denounce the infraction of these Regulations, and the provisions of ARTICLE 343 of the Law of June 1, 1906, as amended May 23, 1907, shall be applicable both as to companies and to Government employees.

ARTICLE 41. The provisions of the General Stamp Tax Law shall be adjusted wherever necessary in cases not specified in these Regulations; on the understanding, however, that the provisions relating to the General Stamp Tax Office and the Chief or Subsidiary Bureaus, shall be applied as to the juris-

diction of the Stamp Bureau of the Department of Finance and the Fiscal Petroleum Inspectors, respectively.

ARTICLE 42. Companies enjoying special concessions from the Government shall notify the Fiscal Inspector on each occasion when they receive machinery, materials or goods of any kind that are exempt from duty, in order that the said office may, acting with the Fomento Agents, satisfy itself as to the accuracy of the returns and as to whether the goods imported conform to the needs of the company.

The said notice shall specifically contain the name and kind of article, its gross and net weight, the number of articles, the purpose for which it has been imported, prices and the amount of duties to which it is liable, and not paid. These notices shall carry a notation setting forth the exemption from duty under the respective clause of the contract or any other provisions in force; both shall be set forth in full.

ARTICLE 43. Custom House Collectors, on their strict accountability, shall not permit the registry or clearance of any oil tanker not having the necessary permits for loading etc from the Fiscal Petroleum Inspector required under these Regulations.

Collectors shall lend all moral and material aid to the Fiscal Inspectors, whenever so requested, in order to compel the companies to comply with the present Regulations; lastly, they shall not accept from the companies any statements of weight, which does not carry the "O. K." of the Fiscal Inspector, to whom they shall appeal whenever they need any official information as to the shipments of petroleum.

TRANSITORY ARTICLES.

I. The Regulations of June 24, 1912, as well as all circulars amendatory thereof are hereby repealed.

II. These Regulations shall go into effect on May 1st of the present year. Mexico City, April 14, 1917.

(Signed) VENUSTIANO CARRANZA.

DECREE OF OCTOBER 16, 1917..

PROVIDING THAT THE DEPARTMENT OF FINANCE SHALL FIX EVERY TWO MONTHS THE TAX ON CRUDE PETROLEUM.

WHEREAS, for the purpose of protecting the national industry of the refining of petroleum, it is necessary to fix rates for raw products differing from those for refined products, computing them in proportion to the total of the tax on their components, as well as to fix a lower valuation on crude gasoline, leaving the rates on kerosene unchanged,

NOW, THEREFORE, I, Venustiano Carranza, in the exercise of the extraordinary powers with which I am invested in the Department of Finance by Congress, have seen fit to decree as follows:

ARTICLE 1. In establishing the rates of the special stamp tax on crude petroleum of domestic production, the Department of Finance shall fix every two months the value of crude petroleum, so that the 10% tax to be paid shall be equal to the total of taxes paid by its component parts, fuel oil, crude kerosene and crude gasoline.

Likewise, in determining the proportion of components to which this article refers, the average which crude petroleum refined in the country contains of such components shall be taken as a basis.

ARTICLE 2. The Department of Finance shall fix every two months valuations for refined kerosene and refined gasoline taking the average prices obtained in the City of New York during the preceding month; on the under-

standing that these prices shall be applied to crude gasoline and crude kerosene, discounting three-fourths of a centavo from the price of each unit, in so far as relates to crude petroleum.

TRANSITORY ARTICLES.

Article 4 of the Decree of April 13, 1917, and the sole Article of the Decree of June 30, 1917, are hereby repealed in so far as they are inconsistent with this decree.

Mexico City, October 16, 1917,

(Signed) VENUSTIANO CARRANZA.

DECREE ESTABLISHING AN ADDITIONAL TAX PAYABLE IN INFALSIFICABLE (NON-COUNTERFEITABLE) PAPER.

Whereas, with a view to preparing the reorganization of the national credit, it is indispensable to reduce as much as possible the amount of paper money known as Infalsificable now in the hands of the public, and which, while it has not at present effective circulation in the market, nevertheless represents a substantial nominal debt on the Nation; and

Whereas the redemption of this paper money may be so effected as, without implying the repudiation of a legitimate debt, not to disturb the present monetary circulation; and

Whereas the most practical means of redeeming this money is to receive it in payment of specified taxes to be paid by those taxpayers who enjoy greatest facilities for acquiring such money; and

Whereas in view of the insignificant value of the Infalsificable paper, additional taxes payable in this currency can be levied without thereby creating an undue burden on the taxpayers,

Now, Therefore, I, Venustiano Carranza, First Chief of the Constitutionalist Army, in charge of the Executive power of the Nation, by virtue of the extraordinary powers with which I am invested, have seen fit to issue the following decree:

SOLE ARTICLE. From and after April 1st, next, every payment made by reason of import and export duties and of stamp taxes on the production of petroleum and metals shall be effected with a surcharge of one peso Infalsificable paper for every peso national gold, or fraction thereof, to be paid in accordance with the schedule now in force.

Mexico City, March 29, 1917.

(Signed) V. CARRANZA.

DEPARTMENTAL RULING OF APRIL 17, 1919.

DEPARTMENT OF FINANCE AND PUBLIC CREDIT.

No. 10255.

DEPARTMENTAL RULING.

To the chief of the division of special taxes:

In issuing the following circular for the payment of the tax on the production of oil, gas oil will be included under fuel, the same variations applying to this product as for fuel oil.

April 17, 1919.

(Signed) LUIS CABRERA.

CIRCULAR OF MAY 23, 1917.

IN REGARD TO INFALSIFICABLE TAX ESTABLISHED BY DECREE OF
MARCH 29, 1917.

The Department of Finance, under instructions from the President, hereby notifies all interested parties:

That the decree of March 29th last creating an additional tax of one peso Infalsificable on all imports and exports, as well as on the production of petroleum and metals, is not repealed, but shall continue in force, since the said additional tax in no way affects direct taxes legally levied by laws specifically referring to each executive department, payable exclusively in national gold.

Wherefore, all persons affected by this additional tax, among whom are the oil companies which pay taxes under the decree of April 13, 1917, shall continue paying one peso Infalsificable additional for each peso national gold to be paid by way of taxes.

Mexico City, May 23, 1917,

(Signed) O. MADRAZO, Chief Clerk.

CHRONOLOGY OF EVENTS.

NOTE.—These historical data were taken from the notes exchanged between the United States and Mexico in the oil controversy. Reference is given to the page of this bulletin where some of the documents are referred to.

(Italics indicate assurances of Mexican Government.)

- June 11, 1915. Carranza's Proclamation. "*First, the Constitutionalist government shall afford to foreigners residing in Mexico all the guaranties to which they are entitled . . . and shall amply protect their lives, their freedom and the enjoyment of their rights of property.*"
- Oct. 7, 1915. Note from Ambassador Designate Arredondo to Robert Lansing, Secretary of State, giving the following assurance: "*The Government he (Venustiano Carranza) represents in its capacity of a political entity, conscious of its international obligations . . . has afforded guaranties to the nationals and has done likewise to foreigners, and shall continue to see that their lives and property are respected in accordance with the practices established by civilized nations.*"
- Oct. 19, 1915. De facto recognition based on above, among other assurances, accorded to Carranza faction by the United States.
- Jan. 19, 1916. State Department to Silliman to protest against possible effects of nationalization of petroleum.
- Jan. 21, 1916. *Assurance of Mexican Government that no such decree was contemplated.*
- Jan. 26, 1916. *Renewed assurance of First Chief Carranza to same effect.*
- Feb. 17, 1916. Communication from Secretary of State Lansing to the United States Senate informing the Senate of Carranza's proclamation of June 11, 1915, and of receipt of Arredondo's letter of Oct. 7, 1915, in reply to request for information as to assurances precedent and leading to de facto recognition.
- Aug. 10, 1916. Ruling by First Chief Carranza requiring foreign stockholders of new companies to waive diplomatic protection.
- Aug. 15, 1916. Decree extending same requirement to aliens acquiring real property.

- Aug. 16, 1916. Protest of State Department against both measures.
- Dec. 15, 1916. Confirmation of Decree of August 15, 1916.
- Jan. 19, 1917. Renewed protest of State Department against decrees of August 15, and December 15, 1916.
- Jan. 22, 1917. State Department protest against Articles 27 and 33, as submitted to Constitutional Convention. Pages 441, 445.
- Feb. 20, 1917. *Mexican Minister of Foreign Affairs assured Fletcher that a constitutional article would prevent confiscation.*
- Feb. 20, 1917. Thereupon Fletcher presented his credentials.
- May 1, 1917. Mexican Constitution declaring oil deposits to belong to Mexican nation becomes effective.
- Aug. 2, 1917. Fletcher cabled Department of State that *Carranza assures United States that no legislation of his government would "absorb" oil or mining properties being developed by Americans in Mexico.*
- Jan. 23, 1918. Protest by United States against refusal by Mexican Government to grant drilling permits to American companies.
- Jan. 27, 1918. Reply by Mexican Government demanding that companies waive nationality.
- Feb. 19, 1918. Decree requiring "manifests" and payment of rentals and royalties.
- Apr. 2, 1918. United States note to Mexico, protesting against decree of February 19th.
- Apr. 4, 1918. Renewed protest by United States against decree of February 19, 1918, as threatening confiscation.
- May 18, 1918. Decree extending time for "manifests" to July 31st.
- July 31, 1918. Decree based on that of February 19th, further extending to August 15th date for presentation of "manifests." Page 448.
- Aug. 8, 1918. Decree regulating decree of July 31st. Page 450.
- Aug. 12, 1918. Attention of Mexican Government called to fact that its note of April 2 is still unanswered. Page 450.
- Aug. 12, 1918. Presentation of request by American Government for extension of time to present "manifests." Protest of April 2nd renewed.
- Aug. 12, 1918. Decree based on that of July 31, 1918, issued. Page 450.
- Aug. 13, 1918. Mexican Government refused request of American Government for extension.
- Aug. 17, 1918. Mexico's reply to United States' note of April 2.
- Nov. 22, 1918. Executive Bill "regulating" Article 27 presented to Mexican Congress.
- Dec. 26, 1918. United States rejoinder to Mexican reply of August 17th.
- Dec. 28, 1918. Note of American Government to Mexican Government that decrees, if enacted into law or confirmed by Congress, would meet same protest as existed against them as Executive decrees.
- Dec. 31, 1918. Decrees confirmed as laws by Mexican Congress.
- Mar. 18, 1919. United States protests against collection of royalties.
- Mar. 20, 1919. Circular of Mexican Government ordering confiscation of wells and destruction of work of drilling permits have not been obtained.
- Apr. 16, 1919. United States protests against granting rights in American-owned or leased oilfields in Mexico to third persons under "denouncement," as also to issuance of "titles to, or rights in, lands legally held by American citizens."

- May 29, 1919. Reply of Mexican Government to notes stating American companies should have "manifested" under protest to save properties from "denouncement."
- June 16, 1919. Instructions by United States Government to rejoin to above, telling Mexican Government it itself had stated in reply to "Amparos" of oil companies that protest was nugatory and that the act of acquiescence in a law estops the plaintiff from questioning its validity. "The United States cannot admit that American companies are in any way blamable" for the situation complained of.
- June 18, 1919. Instructions to Summerlin to protest against refusal of drilling permits or stoppage of work on properties, owned by American companies, as acquiescence in permit regulations would be equivalent to admission of ownership of oil deposits in the Mexican nation.
- Aug. 1, 1919. Circular No. 9, requiring companies to accept petroleum legislation in advance before being granted drilling permits.
- Oct. 1, 1919. Instructions sent to Summerlin to inform the Mexican Government that the United States objects to application of terms of Decrees of January 7, 1915, and March 20, 1919, which provide for confiscation of wells drilled without permits.
- Nov. 12, 1919. Stoppage by Mexican federal military forces of all wells being drilled by American companies, which had, in harmony with the State Department's attitude, and with its knowledge, refused to acquiesce in confiscation of their properties.
- Nov. 19, 1919. Refusal, by order of President Carranza, to permit American companies to take oil from wells already drilled without permit.
- Dec. 8, 1919. Petroleum bill (see Nov. 22, 1918) passed by Mexican Senate (XXVIIIth Congress).
- Jan. 20, 1920. Circular granting provisional drilling permits without relinquishment of rights by oil companies or abandonment of Mexican Government's position.
- Mar. 12, 1920. Executive Order on Federal Zone. Page 459.
- Apr. 21, 1920. Regulations on Federal Zone Decree. Page 462.
- Aug. 13, 1920. Instruction to Chargé Summerlin to protest against continued "denouncements."
- Aug. 18, 1920. Instruction to Chargé Summerlin to protest against Federal Zone Order.
- Jan. 12, 1921. Instruction to Chargé Summerlin to protest against issuance of certain titles or patents to American-owned properties.

CENTRAL AMERICA.

CONTENTS.

	Page.
British Honduras-----	491
Costa Rica-----	492
Guatemala-----	498
Honduras-----	500
Nicaragua-----	506
Panama-----	507
Salvador-----	517

BRITISH HONDURAS.

No petroleum laws have been obtained.

491

COSTA RICA.

CONTENTS.

	Page.
Petroleum mines.....	492
Right to denounce—Application of constitution—Duties and immunities of denouncers.....	492
Resolution as to Pinto-Greulich contract.....	496
Costs of suit against former President.....	496

PETROLEUM MINES.

RIGHT TO DENOUNCE—APPLICATION OF CONSTITUTION—DUTIES AND IMMUNITIES OF DENOUNCERS.

RICARDO JIMENEZ, CONSTITUTIONAL PRESIDENT OF THE REPUBLIC OF COSTA RICA.

CONSIDERING :

I. That the interpretation of Article 57 of the Mining Laws allows the right to denounce petroleum mines.

II. That the law of the 25th November, 1913, which annulled the application of said Article to petroleum mines, recognized the legality of rights acquired by the denouncers previous to the promulgation of said law.

III. That, although in the said Article 57 it was stated that provision would have to be made for the taking over and working of the petroleum mines, no especial laws had been provided for the case.

IV. That as the persons who have existing rights feel themselves seriously affected by lack of exact regulations, it is necessary to decide definitely what application shall be made of Clause 27 of Article 102 of the Constitution.

DECREES.

ARTICLE I.

Fixes as the superficial measure of a petroleum mine holding a square of 2,000 meters a side.

ARTICLE II.

The denouncers of petroleum deposits or springs of which they have obtained possession in accordance with the law, in the exploitation of this substance, enjoy the following immunity from taxation:

(a) To export free of all tax the natural products, refined or worked, coming from the exploitation;

(b) To import free of duty machines for refining petroleum and for working every class of products which have crude petroleum as a base, the necessary

pipes for these industries, as well as the accessories of the pipes, pumps, iron or wooden tanks, and materials for buildings used in the exploitation;

(c) The capital invested in the exploitation and the products will be free of all taxation, except that mentioned in Article VIII;

(d) The grantees will have the right to occupy the waste land necessary for the establishment of their machinery and offices;

(e) For the purpose to which the previous paragraph refers, if the lands are private property the grantees will have the right to expropriate them;

(f) The companies will have the right to establish pipe-lines to carry the products of the exploitation through national waste lands;

(g) They will also have the right to establish pipe-lines to carry their products through private property when it may be necessary in order to facilitate their sale, and provided that it may not be with the object of establishing a service in which said products are to be consumed;

(h) The discoverers who have in exploitation a well which gives at least 2,000 litres of petroleum a day enjoy the privilege that around (surround) the well to a distance of 3 kilometres no one shall have the right to open wells for exploration or for the exploitation of those same products.

ARTICLE III.

To avail themselves of the exemptions established by Section (b) of Article II, the companies will in every case present to the Minister of Public Works detailed lists of the objects which they intend to introduce, specifying the number, quantity and quality of said effects, and accompanying them, when necessary, by drawings and explanations. The Department of Public Works will give the necessary instructions for the concessionary company to make its importations in accordance with the rules and regulations of the Department of Finance. Objects imported on the strength of the concession cannot be sold without previous authorization from the Department of Finance, and failure to observe this law will make the transgressor liable to the penalties attached to the crime of smuggling.

ARTICLE IV.

The right of expropriation referred to in Section (e) of Article II is exercised in the following way:

(a) The companies shall present to the Minister of Public Works the plan of the works which are to occupy the land which they wish to expropriate, as well as of any other works which may serve to demonstrate the necessity of the expropriation.

(b) This Department, with previous information from the proper inspector, and taking into consideration, if it so deem necessary, any other details which at any time it has the right to demand from the authorities, from the grantees and from the owners of the land to be expropriated, may or may not approve the plans presented.

(c) If the plans are not approved, the necessary modifications will be pointed out to the applicants, without which the expropriation will not be put through.

(d) If the plans are approved, with or without modifications, this act alone shall be considered as a confirmation of the expropriation of the lands.

(f) With these plans and the statement of approval, the interested parties shall apply to the Judge and bring the suit for expropriation, in accordance with Chapter III of the law of the 26th June, 1896, the interested parties taking the part which in the said chapter is given to the authorities.

(g) If the owner of the land to be expropriated is absent, the first notification shall be given in the terms provided by Art. 109 of the Code of Civil Procedure, and if he does not present himself in the case, the latter will go forward, the amount of indemnity being deposited in the place designated for legal deposits.

(h) If for any reason it is uncertain who may be the owner of the land, the case shall go forward with whatever person or persons present themselves to oppose it, and the amount of indemnity shall be deposited as indicated in the preceding paragraph, so that the deposit may be finally delivered to him who is legally entitled to it.

ARTICLE V.

In order that the companies may avail themselves of the right granted to them by Section (g) of Art. II, they shall proceed in the following manner:

(a) They shall receive from the Department of Public Works the declaration of what is necessary for the respective exploitation, to unite the desired points and localities by means of pipe-lines for the carrying of their products. The Department of Public Works, in granting or denying this declaration, will take into account the nature and importance of the company, and the mercantile conditions and the greater or less facilities for communication that there may be in those localities, and as a whole everything which may demonstrate the necessity of the installation of the desired pipe-line. For this purpose the Department shall have the greatest latitude, and may ask the interested parties for any data or information which it may believe pertinent.

(b) Once the companies have this declaration, they can demand of the owners of the land through which the pipe-line is to pass the right to install same, the only claim of the owners being to an indemnity equivalent to the injury done.

(c) If, in spite of this, the owners offer resistance to the companies, or the latter cannot come to an agreement with them with regard to the spot where the pipes are to be placed or as to the amount of the indemnity, the companies shall apply to the First Judge of the Civil Court, who shall decide the question in accordance with the following regulations:

The owners of the land through which the pipe-line is to pass have a right to point out where it should pass.

If the Judge, in accordance with a judicial opinion, which in every case must be founded upon the regulations laid down by the Code of Civil Procedure, considers the indicated spot impracticable or injurious to the companies, the owners must indicate another.

If this place is found to be the same as the first, the Judge will point out that which seems to him most suitable, trying to consult the interests of both parties.

If there are various properties through which the pipe-line might pass, the one to be selected is that where the installation shall be least expensive. If all are alike in this respect, the Judge shall indicate through which property the line is to pass.

The amount of the indemnity shall be fixed in accordance with the preceding Article.

There shall be no appeal against the decision given by the Judge.

ARTICLE VI.

A decision being given, the Executive shall name an inspector for each negotiation, who shall have the right: (1) To examine the books of the companies; (2) To get any data and notes which the Department of Public Works may

require; (3) To inspect the management of the business and the operations which take place.

All expenses for the fees of experts, the drawing up of plans, etc., are for account of the persons in whose favour judgment has been given.

ARTICLE VII.

The companies established in virtue of this law are obliged to send an annual report to the Department of Public Works for the past year, covering every branch of the exploitation, especially the statistics of its products, the expenses of the business, the general balance, and any others which the Department may see fit to designate. Failure to comply with this obligation will be visited with a penalty of from \$50 to \$500, according to the gravity and frequency of the omission in the opinion of said Department.

ARTICLE VIII.

The private companies or enterprises which obtain judgment are obliged, in exchange for the exemptions which this decree grants them, to pay annually to the National Treasury 5% of the wholesale value at the edge of the well of the petroleum which is obtained by exploitation of the adjudicated springs and deposits. The amount serving as a basis for this tax shall be the average price obtained by the crude product at the edge of the well during the year to which the tax is applied. The taxes for each year shall be liquidated within two months after its expiration, and this amount shall be paid after the examination of which the following paragraph speaks, within sixty days after the expiration of the year. The grantees shall carry the accounts of the company in mercantile form. The inspector shall examine the liquidation and may ask for any necessary vouchers. The o. k. of this employee will answer for the correctness of the liquidation. This examination will take place before the payment of the tax. When the latter is effected, the company shall present at the office of the National Treasury a copy of each liquidation with the indicated o. k. as a voucher.

ARTICLE IX.

The Government will grant to the respective Municipalities, in place of the taxes which they might place on the companies or on their properties, a share of 15% on the sums paid by the companies.

ARTICLE X.

It will not be permitted to open wells for exploration or exploitation of petroleum in towns, nor at a distance less than 300 metres from the last houses.

ARTICLE XI.

The present denouncers of petroleum mines must have their mines in active operation within two years from the publication of the present decree, under penalty of forfeiture of its rights.

Given in the city of San Jose, April 18, 1914.

RICARDO JIMENEZ,
Subsecretary of the Department of Public Works.
ENRIQUE JIMENEZ NUNEZ,

RESOLUTION AS TO PINTO-GREULICH CONTRACT.

THE CONSTITUTIONAL CONGRESS OF THE REPUBLIC OF COSTA RICA
CONSIDERING:

1. That in the formation of Decree No. 51, issued by this Assembly under date of August 12th, 1916, approving the Pinto-Greulich contract, all the legal requirements were observed up to said date;

2. That subsequently, on considering the veto with which the decree in reference was returned by the Executive, this Chamber omitted to give to the matter the substantiation provided for by Article 89 of the Constitution and by the inner Rules & Regulations of the said Body, and instead of such proceeding, in session held on November 10th of said year, resolved to order the promulgation thereof in "The Gazette," "for its effects as a law of the Republic," which publication was immediately made;

3. That this National Representation considers that, in view of Articles 87 to 91 and 16 and 17 of the Constitution, the procedure adopted by the decree referred to lacks legal value, in consequence whereof the publication of the decree in reference is also inefficacious as a supplemental means for the sanction of the Executive;

4. That among the functions of the Legislative Assembly is not included that of declaring the nullity of the decree and publication mentioned, as they treat of acts emanating from a legitimate source, and must, therefore, abstain from making such declaration, which, in the opinion of this Congress, is exclusively incumbent upon the Courts of Justice in the specific case;

5. That the foregoing does not hinder this Representation from endeavoring, by the means deemed lawful, to secure the equilibrium of right, returning matters to their normal state, issuing the measures deemed proper, with the object of finding a fit solution for a matter which urgently demands it, inasmuch as large national and individual interests are dependent thereon;

6. That from documents submitted by Congress appears the confession made by the concessionaire's attorney when he was in exercise of such attorneyship, that in order to obtain the contract illicit means, such as bribery or gratifications, were employed. Such confession—even though it be clear proof against the one who made it—demands of the State for its own respect—the investigation of the offences affirmed by the confessor and the punishment of all who may be proven guilty thereof:

Therefore,

RESOLVES: To urge the Executive, (A) To without delay demand before the Courts of the Nation, and through the medium of the Public Office, or of a special attorney, the annulment of the decree and publication specified in order the non-existence of the Pinto-Greulich contract be declared, adopting the measures deemed fit in the benefit of national interests; (B) To institute judicial action tending to secure the punishment of the offences referred to in Paragraph 6. Be it communicated and published.

JULY 21, 1920.

COSTS OF SUIT AGAINST FORMER PRESIDENT.

ARTICLE VI, MINUTES OF THE 74TH SITTING OF COSTA-RICAN CONGRESS,
JULY 6, 1920, AS PUBLISHED IN LA GACETA, JULY 11, 1920.

"Deputy Zeledon Brenes made the following motion: 'The Constitutional Congress, Considering:

1st. That there exists in this Chamber a perfect knowledge of the brilliant and efficient work which Ex-president, Mr. Alfredo Gonzales Flores performed

in the capital of the United States of North America for the restoration of constitutional order in Costa Rica and for throwing light upon the facts referring to the influence which the owners of a petroleum concession exercised in the deposition of the constitutional government; 2nd., That said patriotic conduct on the part of ex-President Mr. Gonzales Flores gave occasion for the suit which Mr. Lincoln G. Valentine has brought before the Courts of New York against the ex-President of the Republic, Mr. Alfredo Gonzales Flores, gives the latter the material and moral aid that he may need.'” Adopted.

PRESIDENT'S REPLY OF ABOVE RESOLUTION AS PUBLISHED IN LA GACETA
OF JULY 21, 1920.

“Resolution No. 2, which I return to you herewith, has reference to the moral and material aid which the majority of Congress wishes should be given to Mr. Alfredo Gonzales Flores in the law suit brought by Mr. Valentine.

No one in Costa Rica fails to recognize the actuation of the said ex-President in the United States of America during the years which followed the coup d'état which took the Power from him, and upon his arrival in the country he could verify his popular aureola on various and expressive occasions.

This circumstance, as well as the wish of the Chamber expressed in the resolution, will oblige the Executive to sanction it so far as it refers to material aid, but the objection which I respectfully offer, based on article 73, part 11, of the Constitution, is that Congress omitted to fix an amount to be included opportunely in the Budget, or to decree expressly the sum of the extraordinary expenditure which ought to be made for the particular case.

As to the moral aid to which the resolution also refers, that is that the State should identify itself with the defendant in a cause of a private nature the details of which are not known in the country, the Executive is of the opinion that it is not proper to accede to the invitation which Congress makes him in this respect, because Costa Rica can not and ought not to assume liabilities in blank, nor to bear the consequences of a moral order which only affects an individual, whether it is a question of a person in an exalted position, or as in this case of one of our ex-Chiefs of the State. In the history of the Republic there is no precedent known which justifies such a measure, and even though the Executive has the legitimate aspirations, shared by the compatriots of Mr. Gonzales Flores that the latter may come out victorious in the suit in which his honor is attacked, he can not and ought not to do anything else and to this aspiration limits his intervention in the matter.

May your High Body be kind enough to supply the procedure that is suitable to these reservations and objections and at the same time accept my highest regards.”

GUATEMALA.

CONTENTS.

	Page.
Mining code-----	498
Classification of mineral substances-----	498
Decree relating to petroleum concessions-----	498

MINING CODE.

CLASSIFICATION OF MINERAL SUBSTANCES.

NOTE.—The Mining Code of Guatemala contains no reference to oil, but the following articles of the Code are given for the effect they may have upon the subsequent decree relating to petroleum and other hydrocarbons.

ARTICLE I. The mineral substances and fossils occurring in the surface of the ground, or hidden under the soil, are in respect to the regulations governing their exploitation, classified under three heads; namely mines, clearings and quarries.

ARTICLE II. Such places are to be considered mines where veins, beds or pockets are met with containing gold, silver, platina, quicksilver, lead, iron in veins or beds; tin, manganese, copper, zinc, bismuth, cobalt, arsenic, magnesia, antimony, molybdenum, or any other metallic substances, sulphur, coal lignite, bitumen, alum, and sulphates with metallic base.

ARTICLE III. Clearings or loose soil containing minerals, comprise, alluvial soils containing iron, or pyrites capable of being converted into sulphates of iron; earth containing slum and peat.

ARTICLE IV. Quarries comprise slate, building stone, marble, granite, limestone, gypsum, pozzuolana, basalts, lavas, chalk, marl, sand, flints, argil, kaolin, potters earth, all kinds of earthy substances, pyritic earths that are esteemed useful as fertilizers, whether worked by open cuttings or by means of underground excavations.

ARTICLE V. Mines specified in Article 2 belong exclusively to the State.

There are no taxes imposed on the output of minerals in Guatemala.¹

DECREE RELATING TO PETROLEUM CONCESSIONS.

DECREE NO. 722.²

Considering that the Mineral Code does not comprehend in the classifications under its articles 2, 3, and 4, the deposits and fountains of petroleum and hydrocarbons in general, and that, in consequence, it is necessary that a law be decreed regarding the acquisition and exploitation of such deposits.

¹ Consul. Rep. August 30, 1919; Survey file 595.

² Consular Report, July 23, 1919. Decree itself made up from translation accompanying report and translation from New York.

DECREE.

Article 1: The nation reserves to itself the absolute ownership of all deposits and fountains of petroleum and hydrocarbons in general, that exist in the subsoils of the territories of the Republic.

Article 2: The acquisition of said deposits can be effected solely by means of a lease, that may not exceed ten years in duration, made with the Secretary of Public Works, and submitted for the approval of the President. These contracts can be entered into only with native born or naturalized citizens.

Article 3: The above mentioned contracts will not be transferrable, save by express authority of the Government, and then only when all the parties are citizens of Guatemala.

Article 4: Special regulations shall detail all the requisites and conditions under which said contracts may be drawn, and the present decree will be understood to be an integral part of the Mineral Code, and same will be ratified at the coming ordinary session of the National Legislative Body.

Given in the Palace of the President in Guatemala City, the tenth day of December, 1915; approved by the National Legislative Assembly, April 29, 1916, Decree 945.

HONDURAS.

PETROLEUM CONTRACT.

PETROLEUM CONTRACT.

NOTE: No petroleum laws have been received for Honduras. A Congressional enactment in the way of an approval of a concession, in the form of a contract for the purpose of operating for petroleum and other hydrocarbons was enacted on April 3, 1919, and is as follows:

THE NATIONAL CONGRESS DECREES:

ARTICLE 1.

To approve the agreement which reads as follows:

TEGUCIGALPA, April 3, 1919.

The President of the Republic AGREES: FIRST, To approve in all its parts, the Contract which reads: "J. Roman Ramos Valdes, chief of the Department of the Interior, Public Works and Agriculture, in the name of the Government of the Republic of Honduras, which hereinafter will be called the Government, Party of the First Part: and * * * physician and resident of Catacamas, Department of Olancho, in his own name and as a representative of the Senores * * * and others, Parties of the Second Part, who hereinafter will be called the CONCESSIONAIRES, have agreed to execute and hereby DO EXECUTE the following Contract: FIRST, The Government grants to the CONCESSIONAIRES the right to DRILL and DIG in the lands of any ownership whatsoever, in the Department of Tegucigalpa, Olancho, Choluteca, Valle, El Paraiso and the territory of Mosquitia, of this Republic, for the purpose of seeking PETROLEUM, MINERAL CARBON, NAPHTHA and OTHER HYDROCARBONS which may exist in the interior of the earth, a right which they will exercise in conformity with the rules established by PART II of the MINING CODE. If the CONCESSIONAIRES should discover any of the substances specified in the preceding paragraph, they will have from that moment the exclusive right to EXTRACT, EXPLOIT, BENEFIT and EXPORT all those which may be found within a zone of ONE THOUSAND SIX HUNDRED hectares for EACH DISCOVERY, the zones to be measured in the form that the CONCESSIONAIRES may indicate, on condition that the well through which the discovery was made be contained in the zone to which it properly belongs; and they will enjoy all the rights and privileges which the laws concede to miners. It will NOT BE CONSIDERED A DISCOVERY if there merely be found on the surface of the land seepages or geological formations which may serve as an indication for believing that there exists petroleum in some part of the interior more or less near to the spot on which the seepages or formations are found. A DISCOVERY will be understood to have been made ONLY when they (CONCESSIONAIRES) SHALL have succeeded in making the petroleum, carbon or other hydrocarbons FLOW to the surface of the land, whether they surge out spontaneously thru the wells drilled by the CONCESSIONAIRES or whether they be extracted thru said wells (per-

forations) by means of any mechanical device (or procedure). Once the CONCESSIONAIRES have made a discovery they must make it known to the Government, by means of writing to the SECRETARY of the INTERIOR in which (writing) they will give the special and characteristic (identifying) signs (of location) of the spot where the well, thru which they have found the petroleum, carbon or other hydrocarbon, is located; the extension (size) of the zone which they desire to take within the limits permitted by this contract and the courses (directions or routes) toward which it is to be laid out (surveyed). The CONCESSIONAIRES will be permitted to line out, provisionally, their zone. The Executive Power (President) (after having received the petition) after verifying, by means which he may believe best and without loss of time, the fact of the discovery, will name a surveyor, in order that he (the surveyor) may, at the expense of the CONCESSIONAIRES, make the survey of the zone within six months from the time of his appointment. As soon as the survey is approved, there will be delivered to the CONCESSIONAIRES a certified copy of all the acts (decrees) from the (time of) the application, in order that it may serve them as a Title of Right.

SECOND: The CONCESSIONAIRES may introduce, free of all duties and fiscal imposts now established or which may in the future be established, with the exception of the road tax, the machinery, tools, implements and goods of all classes necessary for the exploitation in question. Each time that they have to make a petition (request) the CONCESSIONAIRES will present previously to the Secretary of the Interior a general itemized list of the articles which they have to introduce, specifying in said list the number quantity and quality of the goods. The Secretary of the Interior will make examination and classification and will determine if said effects are appropriate to that object (work) in conformity with this contract, and in that case will fix the quantity which the CONCESSIONAIRES may import free of duty. This resolution (of the Secretary of the Interior) will be communicated to the Secretary of Hacienda in order that in his turn he may transmit the orders to the Custom Houses thru which the goods are to be introduced; it being understood that without the presentation of this list the Secretary of the Interior will not approve any introduction of goods. The goods which are brought in must be for the exclusive use of the enterprise (company) and if they be for or apply to other uses all or any of them, the Secretary of Hacienda will demand the restitution of the duties thereon, without prejudice (damage) of (or) deducting from the CONCESSIONAIRES the corresponding responsibilities, in conformity with the laws of the country.

THIRD: The CONCESSIONAIRES may use freely the national and common lands which may be in the departments mentioned, in all the area necessary for the easy (comfortable) exploitation of the enterprise, as fast as the development of the works demand, for the establishment of corrals, machines of extraction and profit; for workshops, living houses, transport roads for the local service of the different works which may be established and pasturage for the animals which may be necessary for the exploitation. In this case as well as in the case of the national and common lands to which Article 40 refers, the CONCESSIONAIRES will pay in advance the value of the betterments which may be on them, at a just valuation of experts named according to law. Also the CONCESSIONAIRES are empowered to make free use of the timbers which may be on said national and common lands and which may be necessary for the exploitation of the enterprise, excepting the precious woods and useful trees which may be found within the borders of each zone, for the use of these must be controlled by the Decree No. 62 of March 4, 1909 and by the regulations on it (their use) which in the future the Executive Power or the respective

municipalities, with the approbation of the former (Executive Power), may demand.

FOURTH: If the CONCESSIONAIRES should deem it suitable to place a pipe line for transporting the liquid products of their development (enterprise) from the points of extraction to any others, they will have the right to make free use for that purpose of a strip of national and common lands of two meters in width between said points, and of making use also of a strip of the same width over privately owned lands which may be in the (path of) transit, previous arrangement with the respective owners (being made) and on failure to do this, by means of legal expropriation since for this work the pipe line shall be considered as a work of necessity and public utility. The case having arisen of making use of the right which is granted them in the paragraph which precedes this article, the CONCESSIONAIRES will designate the national and common lands which they may need and the Executive Power will order them to be surveyed by one or more surveyors of his appointing and to be paid by the CONCESSIONAIRES. The Government will extend to these (latter) after the corresponding (proper) (legal) steps have been taken, a copy of the respective formalities in order that it may serve them as Title of their Right. If it should be necessary to establish the employees mentioned here upon lands of private ownership in accordance with the disposition of said first paragraph of this article, the CONCESSIONAIRES may stop all planting or new work on the strip under consideration and will have right to send their workers and inspectors upon it to clean and repair the pipe line and to care for its preservation. The pipe line which may have to cross navigable rivers will be placed in such a manner that it in no way will interfere with navigation.

FIFTH: The enterprise, as well as the sale and exportation of the substances which are exploited, will (may) not be burdened with taxes and fiscal tributes, and the employees and operatives of the same will be exempt from all military service, parades and doctrinal exercises, provided that they have served their time in Garrison duty, once at least in conformity with the organic law of the Military (branch of Government).

SIXTH: The CONCESSIONAIRES obligate themselves to have completed at least 2000 metres of well (drilling) within two years counting from the date on which the Congress (National) approves the present contract.

SEVENTH: The CONCESSIONAIRES cede to the Government TEN PERCENT of the gross product of crude petroleum or other hydrocarbons which they may extract, which will be delivered at the point where it may be produced. When the CONCESSIONAIRES shall have established pipelines for the transportation of said petroleum to the coast of the Republic, the Government will have the option to receive its part, free of expense of transportation, at the point where the pipe line may end, or its value in money as fast as the cash is realized. For this result the Government may dictate the means which it considers fitting to assure its just rights.

EIGHTH: The CONCESSIONAIRES will have the right of preference to denounce and acquire, according to the Mining Laws, the minerals which they may discover, upon opening the wells for the exploitation of petroleum, a preference which will endure SIXTY days counting from the day following that on which the discovery is made.

NINTH: The present contract will have a life of TWENTY FIVE Years counting from the date on which it be approved by the National Congress.

TENTH: The CONCESSIONAIRES may transfer the rights and obligations which are born with this contract to any person or company, native or judicial, with the previous approval of the Government, and in no case to governments or corporations of (operating under) foreign public laws.

ELEVENTH: The CONCESSIONAIRES, their successors or proxies, even when all or some of them be foreigners, as far as this contract is concerned, will be subject to the jurisdiction of the Courts of this Republic in all the negotiations whose cause and action take place within its territory, and they never can cite any right of foreigners regarding it (contract) and the affairs relating to it, under any form whatever, and they will have only the rights and means of making them valid which the laws of the Republic grant to Hondurensians; not being able, consequently, to introduce themselves in any way in said affairs the consular agents and foreign diplomats; it being understood that any action or claim thru diplomatic channels, whatever the motive on which it might be founded, be expressly renounced.

TWELFTH: The differences which may occur between the CONCESSIONAIRES and the Government thru interpretation of the terms of this contract, must be submitted to the decision of two amicable adjusters named, one by each side, with power to name a third in case of disagreement, and if they should not be able to agree on this appointment the choice will be made by ballots among four candidates proposed, two each, by the CONCESSIONAIRES and the Government. If either of them should not present candidates within the period which the respective Judge of Civil letters (Juez de Letras de lo Civil) may indicate, this officer will make the choice of said candidates. The arbitrament must be organized in the Capital of the Republic and there carried out, unless the arbiters agree on some other place in the Republic. The decision of the majority will be obligatory for both parties and there will be no recourse against it.

THIRTEENTH: The CONCESSIONAIRES will recognize the jurisdiction of the Laws of Honduras and for the effects of this contract, they also will recognize as the home (office) the capital city of the Republic in which they will always have a legally accredited representative. In case of not having one or in case of his absence without leaving a legal substitute, the Civil Judge of Letters of the First Instance will appoint for them a representative according to the laws of Honduras.

FOURTEENTH: As a guarantee of the compliance (fulfillment) of the obligations which the CONCESSIONAIRES accept by the present contract, they will be obliged to deliver to the National Treasury the sum of TEN THOUSAND DOLLARS AMERICAN GOLD, SIXTY DAYS after the National Congress shall have given its approbation, this sum to be ceded by the CONCESSIONAIRES for the benefit of the State.

FIFTEENTH: The present contract will become void in fact and without the necessity of express declaration (excepting only an Act of God or unforeseen event) for any one of the following causes: (a) For failure to deliver on the date indicated the TEN THOUSAND DOLLARS AMERICAN GOLD, to which the preceding article refers; (b) To play (sic) commerce with the goods declared free of duty for the enterprise; (c) For not drilling the wells in the time stipulated in Article 6 of this contract; (d) For transferring the rights and obligations without the approval of the Executive; (e) In general, for failure to comply with any of the obligations which are assumed by the Concessionaries.

SIXTEENTH: For the purpose of proving the Act of God or the unforeseen circumstance to which the previous paragraph refers, the CONCESSIONAIRES will enjoy a period of ninety days from the date on which it may have happened. The CONCESSIONAIRES may present all classes of proof, their qualities being left to the prudent arbit(r)ament of the Government. The latter will remember that these proofs may be amplified in the form that it may consider appropriate or which may be practiced by special investigations.

SEVENTEENTH: The Government having declared as proved the "caso fortuito or fuerza mayor" (act or circumstance beyond control) will grant to the CONCESSIONAIRES all the time that the impediment may have endured and the additional period which the Government may deem just in view of the circumstances.

EIGHTEENTH: The CONCESSIONAIRES will present to the Secretary of the Interior, within sixty days following the resumption of work, the notice and proof that they have continued after removal of the impediment. Events occurring outside of Honduras will not be considered as Acts of God or beyond control.

NINETEENTH: It is clearly understood and agreed that this contract will not affect in any manner the rights legally acquired by third parties prior to it.

TWENTIETH. The present contract will be submitted to the knowledge of the National Congress, in its regular sessions, and if it be approved by that body, no other person will be able to enjoy from that time in the departments mentioned, any right of those which are conceded to the CONCESSIONAIRES, unless it be thru a contract executed with the Executive and approved by said Congress, in terms identical with the present.

In testimony of their agreement, they have signed the present contract in Tegucigalpa, April 2, 1919. J. Roman Ramos Valdes, * * * Let the present agreement be placed before the National Congress, thru the proper channels. Let it be communicated. BERTRAND, The Secretary of State in the Office of the Interior, Public Works and Agriculture.—Manuel S. Lopez. Given in Tegucigalpa in the Hall of Sessions, on the 7th. day of April, 1919. Pedro A. Medal, Vice-president; Antonio Bermudez M. Secr'y. J. A. Rivas, Secretary to the Executive Power. Therefore, be it executed: Tegucigalpa, 24th of April, 1919, F. BERTRAND. The Secretary of State in the Office of the Interior, Public Works, and Agriculture, Manuel S. Lopez."

Title II of the Mining Code, to which the contracts are made subject, is as follows:

TITLE II.

OF INVESTIGATING OR PROSPECTING.

Art.—15. The right to examine and dig in lands of whatever ownership in search of mines, may be exercised freely in unfenced lands or those not under cultivation.

Art.—16. To be able to execute works of investigation in unirrigated cultivated lands (terrenos cultivados de secano), permission from the owner or administrator of the estate will be necessary. In case of refusal of the owner or of the administrator, the Judge of Letters of the place will be able to grant or refuse the permission, without further recourse after verbal hearing of the interested parties and, if either of the parties believe it opportune and should request it, of a mining engineer.

Art.—17. The permission granted by the Judge in accordance with the foregoing article, will determine the number of persons who may be employed in the investigation, and it will be understood always under the following conditions:

1st. That the investigation be practised necessarily when there are no crops in the ground.

2nd. That the period of the investigation may not exceed sixty days counting from the date on which the permission was granted.

3rd. That the applicant previously render a bond if the owner of the land exact it to respond for indemnization of all damage that may be caused to the proprietor by the investigation or because of it.

Art.—18. He who may have obtained permission from the Judge to make investigation on a property, may not for any reason, request new permit with reference to that same land.

Art.—19. If, for justified cause, the investigation could not be made in the stated period the permit may be postponed to another opportune time, by virtue of a new decree by the competent authorities.

Art.—20. The Judge may not grant permission for drilling (*calicatas*) in houses, gardens, orchards, or in any other kind of irrigated properties, nor in unirrigated land that contains trees or vines.

Art.—21. No drilling (*calicatas*) or other mineral labors may be done at a distance less than forty meters from any building or railroad, nor in the vicinity of land sloping above or below any road or canal, without special permission from the administrative authority, which will grant it if, in the judgment of the respective Engineer, there be no obstacle, and which will dictate the measures of security that the cause may call for. The same (procedure) will be observed when works are to be begun at a distance of less than 100 meters from canals, aqueducts, water-holes, or any kind of spring.

In ports open to traffic (*habilitados*) no submarine works may be undertaken without permission of the Administrative Authority and report of an expert.

Likewise, and without prejudice to the dispositions of the foregoing paragraph, to execute those works at a distance less than one thousand four hundred meters from fortified points, a permit is necessary from the respective military authorities.

Infraction of this article will be punished by a fine of fifty to five hundred pesos, without prejudice to due indemnization for damages that may be caused.

NICARAGUA.

No petroleum laws have been obtained.

PANAMA.

CONTENTS.

	Page.
Exploitation of petroleum or gas deposits.....	507
Exploitation of oil and gas fields—Modifications.....	511
Explorations and exploitations—Regulations	512
Reforming law of 1915.....	513
Reservations of minerals—Concessions for petroleum operations.....	514

EXPLOITATION OF PETROLEUM OR GAS DEPOSITS.

LAW NO. 6 OF 9TH JANUARY, 1915.¹

The National Assembly of Panama decrees:

ART. I. The Nation reserves the right to exploit the natural wealth consisting in petroleum deposits or hydrocarbide gas deposits existing in the territory of the Republic of Panama and which may not have been legitimately acquired by private parties.

ART. II. The Executive Power is hereby authorized to grant permits for the exploration of the sub-soil of any land, lakes, lagoons, and ponds, which may be found in National jurisdiction, for the purpose of discovering any deposits of petroleum or hydrocarbide gases which may exist thereon.

ART. III. The Executive Power is also authorized to make contracts in accordance with the regulations established by the present law for the exploitation of deposits of petroleum or hydrocarbide gases.

ART. IV. The permits which may be granted for the exploration of the sub-soil can be issued to persons or companies duly organized and will only last one year, not renewable, to date from the issuing of the permit.

(1) During this lapse of time, nobody except the person or company in whose favor the permit has been issued will have the right to make explorations within the zone referred to therein, for which purpose the boundaries of said zone and its superficial area will be stated in full detail.

(2) The surface area of the land referred to in the permit for explorations can in no case exceed ten hectares.

ART. V. The permits for the explorations will be taxed with .10 of a Balboa per hectare, which sum will be paid in the National Treasury of the Republic before the permit is issued.

ART. VI. Any persons or companies who may discover deposits of petroleum or hydrocarbide gases under the protection of one of the permits issued by the Minister of Finance will immediately notify the said official and will state whether they are prepared to make a contract.

¹ Information has been received that a Commission has been appointed to draft a new petroleum law for Panama.

ART. VII. In making these contracts, the following requirements will be carried out:

(1) The Minister of Finance will appoint one or more experts to examine the petroleum or hydrocarbide gas deposits reported to have been discovered, with the object of making a report thereon.

(2) The springs or deposits discovered should be capable of yielding, each one, at least one thousand liters of petroleum daily, or ten thousand liters, in the same time, of hydrocarbide gases of good quality and suitable for fuel in their natural state.

(3) The fulfillment of the obligations to be undertaken in accordance with the present law will be duly guaranteed by a bond or deposit with the General Treasurer, the amount of which will be fixed in the regulations to be provided for in due course.

ART. VIII. The contracts referred to will be made for a period not exceeding ten years, counted from the date of their approval by the Executive Power. After this period, all the privileges and concessions granted to the contractors will cease, as well as the obligations undertaken under this law; but contracts for the renewal during a period of ten years or more may be made by the Executive Power, when it deems it convenient, at the request of the interested parties.

ART. IX. For each deposit of petroleum or hydrocarbide gases, a claim will be granted, measuring one thousand meters in length by four hundred meters in width, but the concessionaire can not, without special authorization and after fulfilling the legal requirements, make use of the timber and other natural resources which may be contained in the land covered by the concession.

ART. X. The discoverers of deposits of petroleum or hydrocarbide gases, who may have entered into an agreement with the Nation in accordance with the provisions of this law, will enjoy the following franchises for the exploitation of the field:

(1) To export, free of all duty, the natural or refined products which may be obtained in the exploitation.

(2) To import, free of duty, on one occasion, the machinery for the refining of petroleum or hydrocarbide gases and for the manufacture of all the products which may have, as a basis, crude petroleum; the pipe lines necessary for these industries, as well as the accessories for these pipe lines, pumps, iron or wooden tanks, steel or wooden barrels, gasometers, and materials for the buildings intended for the exploitation, but these importations will be subject to the regulations to be issued by the Minister of Finance.

ART. XI. The concessionaires will have the first option for the purchase of the National lands which they may require for the establishment of their machinery and offices, at the price ruling at the time of the concession, in addition to the amount of land which is granted to them in the nature of a "mining claim."

ART. XII. For the same purpose referred to in the foregoing paragraph, the concessionaires will have the right to expropriate private lands in the manner set forth hereafter.

ART. XIII. The concessionaires will also have the right to lay pipe lines through private property when it is imperative to do so for the purpose of carrying the products of the exploitation and thus facilitate their access to the market, providing that the object of establishing the service is not for personal consumption.

ART. XIV. In order to enforce the above rights, the expropriations will be arranged as follows:

(1) The contractors will present to the Minister of Finance a plan of the lands which will be occupied by the proposed improvements and will enclose

all the documents and vouchers required to justify the necessity of expropriating the said lands.

(2) The Minister of Finance will remit the said plans to the Head agricultural engineer, in order that he may examine them, and after the report from this official has been considered, as well as the other data which he may consider desirable to obtain from the owner of the land that it is proposed to expropriate, he will approve or reject the plans presented.

(3) If the said plans are not approved, the necessary suggestions will be made to the interested parties, so that they may be duly modified; but if the suggestions are not followed out, the request for expropriation will not be considered any further.

(4) If the plans are approved, with or without modifications, this will suffice to declare that the request for expropriation is valid in accordance with the plans, from an administrative point of view.

(5) With the above plans and the certificate of their approval, the interested parties will present to the Judge of the District a demand for the expropriation, which will be followed up and decided upon in accordance with the disposition of Law 56 of 1890, the plaintiffs having the same rights that are granted to the Public Prosecuting Attorney in the lawsuits for expropriation, as well as any other prerogatives granted by the law.

ART. XV. If the owner of the land should be absent, a defending attorney will be appointed for him, in accordance with the provisions of Law 105 of 1890, and the expropriations proceedings will continue their course.

ART. XVI. In order to obtain a verdict for expropriation, it is necessary to demonstrate that proposals for an arrangement have been made to the owner of the land that it is proposed to expropriate, and that the proposals have not been accepted.

ART. XVII. For the laying of pipe lines, the procedure will be as follows:

(1) The contractor or interested party will request from the Minister of Finance a statement declaring that for the exploitation of petroleum it is necessary to join, by means of pipe lines, one or two more localities, this request being accompanied by a report from a competent engineer. After this declaration has been made, the contractors may require the owners of the land through which the pipe line may pass to allow the laying of same, with no other obligation than that of paying an indemnity equivalent to the damage that may be occasioned by the installation of the pipe line.

ART. XVIII. The Minister of Finance can also deny the request, but in order to make the declaration referred to in the foregoing paragraph, he must take into account the nature of the improvements of the contractors and other business conditions, as well as a study of the facilities for communication between these two localities, and finally he must consider everything that should serve the purpose of establishing the necessity for the pipe lines requested.

ART. XIX. If the owners of the land should offer opposition to the contractors or if they should not come to an understanding as to the place where the pipe lines should be laid, or as to the amount of the indemnity to be paid, the contractors will appeal to the District Judge, so that he may decide the matter, bearing in mind the following:

(1) That the owners of the lands have the right to designate the place through which the pipe line is to be laid.

(2) That if it should be considered, after the expert's opinion to be obtained in accordance with the requirements of the Judicial Code, that the laying of the pipe line through the place selected is onerous to the contractor or otherwise impracticable, the owner of the land will be instructed to point out any other location for the pipe line.

(3) That if it should be considered, that the location also is impracticable, the Judge will then select the location that may appear to him most convenient, endeavoring to conciliate the interests of both sides.

(4) If there should be more than one property through which the pipe line may be laid, the one that is obliged to give the right-of-way is the one through whose land the installation will be more economical, and if the cost should be more or less the same through all of the lands, the Judge will select which of the lands should be applied for the right-of-way.

ART. XX. In order to determine the amount of indemnity to be paid, the provisions of Article 14 of Law 56 of 1890 will be consulted.

ART. XXI. No appeal can be made against the resolution issued by the Judge.

ART. XXII. After the Executive Power has issued a permit for exploitation, it will have the right to appoint an official inspector for each one of the contracts that may have been entered into; the expenses of this official will be paid pro rata, as indicated hereafter.

ART. XXIII. In the event of the work being carried on by a share company or by a limited partnership, the inspector will be considered as a part of the Board of Directors and will have the right to examine the accounting books of the company and to take all the data or information that he may consider necessary for the Minister of Finance.

ART. XXIV. Should the work be carried on in any other manner than a company or partnership, the inspector will in any case have the right to investigate the accounting, to inspect the management of the business and the operations and the transactions reported on the books, with the object of securing the best possible results, for which purpose he will keep track of the sales that may be made in the Republic.

ART. XXV. For the payment of the inspector, each contractor or company that obtains the right to exploit oil fields will contribute with an amount of 1,200 Balboas, which will be deposited in advance in the General Treasury. Failure to make payment of this amount will be considered an excuse for breaking the contract.

ART. XXVI. All the expenses which may be occasioned by the granting of exploration permits, exploitation contracts, fees of experts, preparation of plans, and any other expense necessary in connection therewith will be for account of the person or company in whose favor the permit or contract has been granted.

ART. XXVII. Companies that may be established in accordance with this law will be under the obligation to render annually to the Minister of Finance a report of the operations of the last fiscal year, covering each and everyone of the branches of exploitation and particularly giving statistics as to production, the expenses of the company, the general balance sheet, and any other points which may be called upon by the Minister. Failure to comply with this regulation will be fined up to 250 Balboas, according to the seriousness and frequencies of the omissions.

ART. XXVIII. The contractors who may obtain exploitation rights will be under the obligation to pay to the Treasurer of the Republic, in exchange for the franchises granted by this law, ten per cent on the total amount of the dividends which they may declare in favor of the shareholders or on the funds set aside for reserve, in accordance with the regulations of the commercial code. If the contractor should not be organized in the form of a corporation or company, the amount that he should pay to the General Treasurer, in accordance with the preceding paragraph, will be determined upon the net profits obtained.

ART. XXIX. The owners of land may make explorations within their properties after notifying the Minister of Finance and advising him of any discoveries that may be made. After a deposit of petroleum or hydrocarbide gases is discovered, they will be able to make a contract for the exploitation in the manner and under the conditions indicated in the articles of this law affecting same.

ART. XXX. In no case would it be allowed to open wells for the exploration or the extraction of petroleum or hydrocarbide gases within the boundaries of towns or at a distance of three hundred meters therefrom; nor would it be allowed to open wells within the neighborhood of other wells made for the purpose of discovering a petroleum or hydrocarbide gas deposit, in land that may be comprised within the one thousand meters length and four hundred meters width that may be granted as a claim to the discoverer.

ART. XXXI. Anyone who has acquired rights for the exploitation of petroleum fields or hydrocarbide deposits, in accordance with previous laws, will maintain their rights, but if they prefer to submit to the regulations of this law, they may apply to the Minister of Finance only to fulfill the formality of making a contract, and in this case all his previous rights will be acknowledged.

ART. XXXII. The Executive Power is authorized to grant the permits referred to in this law, to regulate them in any manner which may be considered convenient and a proper interpretation of the law, and to make drafts of the agreement that will be entered into.

ART. XXXIII. This law cancels Law No. 30 of 1909 and Law No. 24 of 1913, in regard to the exploitation of petroleum mines.

Panama, 9th of January, 1915.

Approved by the President on the 9th of January, 1915.

EXPLOITATION OF OIL AND GAS FIELDS—MODIFICATIONS.

LAW 38 OF 20TH FEBRUARY, 1915.

The National Assembly of Panama decrees:

ART. I. Preference for the concession of the right to exploit petroleum or gas deposits by means of an agreement with the Government, in accordance with the present law is as follows:

(a) The owner of the soil where the deposit may be found, remunerating the discoverer with a tenth part of the net proceeds from the deposit.

(b) The discoverer remunerating the owner of the land with a fifth part of the net produce.

(c) Any other party that may propose a contract for the exploitation, remunerating the owner of the land with a fifth part of the net produce and the discoverer of the mine with a tenth part of the same produce.

ART. II. Whoever, in accordance with the foregoing paragraph, may obtain the preference of exploitation of the oil fields must state his intentions of developing them six months after the Executive Power has given notification to the owner of the soil or has informed the discoverer that the owner abstains from developing the field.

ART. III. If the person who has a prior right to the exploitation of the petroleum or gas fields is not in a position to develop them or does not wish to do so, the right to develop such oil fields passes to the next party in order of preference.

ART. IV. The right to exploit the petroleum field is also transferred from the owner of the land to the discoverer when the latter does not commence work within one year from the date he has expressed his intention to do so.

For the same reason and in the same length of time, the right of the discoverer is decided in favor of a contractor.

ART. V. Any person or company that may pretend to make investigations of the discovery of oil and petroleum deposits in lands owned by private parties will guarantee, before obtaining a permit with a mortgage or bond, the damage that may be caused by the explorations to the owner of the land.

ART. VI. Any person or company that may propose to the Government the signing of a contract for the exploiting of any of the oil or gas deposits provided for in this law must prove satisfactorily that he has the means and the capital necessary for undertaking the work and paying any indemnities which may arise by the concession.

ART. VII. Anyone who presents opposition to the granting of permits and to the signing of agreements in accordance with this law, will present his plea before the ordinary courts, when the decisions of the Executive Power are not in accordance with their views.

ART. VIII. This modifies Law No. 6 of 1915.

EXPLORATIONS AND EXPLOITATIONS—REGULATIONS.

DECREE NO. 9 OF 2ND MARCH, 1915.

The President of the Republic, in accordance with authority vested on him by Article 32 of Law No. 6 of 1915, decrees:

ART. I. The permits referred to in Article 2 of Law No. 6 of 1915, for making explorations in the sub-soil of lands, lakes, and marshes that may be found within the National Territory, will be issued by the Secretary of Finance.

ART. II. If the exploration is to take effect on National lands, the permit will be granted without any further restriction, on payment of 10/100 of a Balboa per Hectare, attaching voucher from the General Treasurer.

ART. III. If the said exploration should take place in private owned lands, the interested party must guarantee, by bond or mortgage, the damages which may be occasioned to the owner of the land, estimated as follows:

If the lands affected are uncultivated and have no buildings thereon, the guarantee will be two Balboas for every permit of 10 Hectares, and if there should be buildings or cultivations in the said lands, the Secretary and the Minister of Finance shall fix the amount of the guarantee, taking into account the value and kinds of improvements that are affected by the development work.

ART. IV. The request for exploring private lands will be notified to the owner, so that in case there are serious objections he may be able to defend his right, and the Secretary's office will decide the objections, but always leaving in the hands of both parties the right to appeal to the ordinary courts, in case they should not agree to his decision.

ART. V. The permit will be extended by the President of the Republic, expressing the jurisdiction where the lands about to be explored are located and giving the boundaries of the ten Hectares corresponding to his permit.

ART. VI. The permits for the exploration can not exceed an area of 10 Hectares each; but as many as may be wanted can be granted to the same person, so long as they are issued separately and in accordance with the requirements of the law.

ART. VII. The right to make contract for the exploitation of the petroleum mines can be claimed in the order mentioned by the owner of the land, by the discoverer of the mine, or by a third party, in any form or manner established by Article I of Law 38 of 1915.

ART. VIII. The approximate production of the area to which a contract refers will be decided upon on the report of experts, and with regard to the

amount estimated for the bond or guarantee, a deposit of five per cent thereof will be deposited in the General Treasury of the Republic to guarantee the fulfillment of the obligation.

ART. IX. Contracts may be made for a period of ten years, renewable, and will be signed in triplicate, on stamped paper of the third class, one copy being retained by the Minister of Finance, the other one by the Treasurer of the Republic, and the third one by the interested party.

ART. X. In case the contractor does not fulfill the obligations which are determined in Article 27 of Law 6, above mentioned, the Minister of Finance will impose an optional fine on the contractor, which may not exceed Balboas 250, having regard to the seriousness and frequency of the omissions.

ART. XI. The present owners of petroleum mines, who may have acquired a perfect title to same, can take advantage of the rights guaranteed by Article 31 of said Law 6, but anybody else will have to submit to the provisions of the law precisely from the date on which the two laws above mentioned and the present regulations come into force.

ART. XII. The demonstration that the applicant possesses the means and the capital sufficient to carry on the exploitation referred to in Article 6 of Law 38 will be made by a certificate from the Public Registrar or through a certificate of deposit in any of the banks of the Republic.

ART. XIII. The present regulations will come into effect from the date they are published.

Panama, 2nd of March 1915.

REFORMING LAW OF 1915.

LAW 57 OF MARCH 16TH, 1917.

GRANTING CERTAIN POWERS TO THE EXECUTIVE AND AS AN ADDITION, REFORMING THE LAW 6TH OF 1915.

The National Assembly of Panama Decrees:

Article 1. The Executive Power is authorized to execute contracts granting permits for exploration on national lands, for discovering deposits of oil or of gaseous carbides of hydrogen for a term not to exceed three years.

Article 2. The explorers shall have preferential rights in the adjudication of the claims that might be requested by them within the area of their explorations.

Article 3. Contracts for exploitation may be made for a term of twenty years, which might be extended for a further similar term.

Article 4. The participation of the Nation in the exploitation of the oil deposits and deposits of gaseous carbides of hydrogen, shall be 5% of the gross result or 10% of the net profits of the company, in accordance with Article 28 of Law 6 of 1915.

Article 5. Article 2 of the Law 6 of 1915 is hereby reformed and Article 28 added to.

Given in Panama this 15th day of March 1917.

The President:

M. DE J. GRIMALDO P.

The Secretary:

EZEQUIEL VALDES A.

Republic of Panama—National Executive Power—Panama, March 16, 1917.
Publish and execute,

RAMON M. VALDES.

The Secretary of Finance and the Treasury.

AURELIO GUARDIA.

RESERVATIONS OF MINERALS—CONCESSIONS FOR PETROLEUM OPERATIONS.

FISCAL LAW ISSUED AUGUST 22ND, 1916, EFFECTIVE JULY 1ST, 1917.

Art. 263. The Nation reserves to itself the exploitation of the natural wealth consisting of coal and common salt mines and deposits of salt and mineral waters; but Executive Power may enter into contract for the exploitation of this wealth on the following terms:

(a) That the contract shall in no case be for a greater term than twenty years;

(b) That the exploitation shall be made under the protection of the public authorities with whom agreement must be made from time to time regarding the prices of the article and the tariffs, and that the violation of this principle shall entail the rescinding thereof;

(c) That the Nation shall be a co-participant in the gross receipts or in the net profits of the exploitation, as may be best suited to the fiscal interests;

(d) That adequate guarantee be given for the fulfillment and good management.

Art. 264. The provisions of Chapter 11 of this Title are applicable to this class of contracts in so far as they are not opposed to the nature of same.

CHAPTER "5."**DEPOSITS OF OIL AND GASEOUS CARBIDES OF HYDROGEN.**

Art. 265. The Nation reserves to itself the natural wealth of the country consisting in deposits of oil and of gaseous carbides of hydrogen, existing on national lands.

Art. 266. The Executive Power is authorized to grant permits for making explorations of the subsoil of lands, lakes, lagoons and marshes to be found on national lands, for the purpose of discovering such deposits of oil or of gaseous carbides of hydrogen as might exist therein.

Art. 267. The Executive is also authorized to enter into contracts in accordance with the following provisions for the exploitation of deposits of oil and gaseous carbides of hydrogen.

Art. 268. The individual or company proposing to the Government a contract for the exploitation of an oil deposit, must furnish satisfactory proof that he has the means and capital necessary for undertaking the work and for paying the indemnities to which he obligates himself by the Act of Concession.

Art. 269. Those opposing the granting of the permits and the execution of these contracts, shall bring action before the ordinary tribunals whenever they are not in accord with the decisions rendered by the Executive Power.

Art. 270. Permits granted for the exploration of the sub-soil may be granted to natives, persons or duly organized companies, and shall only be for one year, counted from the date of the permit, and can not be extended.

During this time none but the person or company in whose favor the permit has been issued shall have the right to make explorations within the zone to which it refers, to which effect the permit will contain the exact boundaries of the zone and its surface extent.

The surface extent of the land to which the exploration permit refers must, in no case, exceed twenty five hectares.

Art. 271. Exploration permits shall pay a tax of 1 Balboa per hectare, payable at the General Treasury of the Republic before the issuance of the permit.

Art. 272. Those persons or legal entities who, under cover of permits granted by the Department of Finance and the Treasury, may discover deposits of oil or of gaseous carbides of hydrogen, must immediately advise the said Department and declare if they are disposed to enter into a contract.

Art. 273. In drawing these contracts the following conditions must be observed:

1. The Department of Finance will name one or more experts to examine the deposits of oil and gaseous carbides of hydrogen discovered, and to give his opinion.

2. The deposits discovered must be capable of producing at least 1000 litres per day each of oil, or 10,000 litres per day of gaseous carbides of hydrogen of a good quality and suitable for use as fuel in its natural state.

3. The fulfillment of the obligations entered into in accordance with this chapter shall be duly guaranteed by mortgage bond or deposit made at the General Treasury, the amount of which will be fixed by the respective legislation.

Art. 274. The contract referred to shall be entered into for a term not greater than ten years, counted from the date of the approval by the Executive Power. On expiration of this term, the privileges and concessions granted exploiters as well as the obligations contracted and which are specified in this Chapter, will cease; but contracts for extensions covering ten additional years may be made at the request of the interested parties if this should be deemed advisable by the Executive.

Art. 275. For each deposit of oil or gaseous carbides of hydrogen, a claim of 1000 meters in length by 400 meters wide will be allowed for the duration of the contract, but the concessionnaire may not use, without special authorization and through compliance with the formalities prescribed in Chapter 11 of this Title, of any timber or other natural fruits contained in the land referred to by the concession.

Art. 276. Those entering into contract with the Nation in accordance with the provisions of this Chapter for the exploitation of oil and gaseous carbides of hydrogen, shall enjoy the following privileges:

1. They may export free of all taxes the natural or refined products derived from such exploitation.

2. They may import free of all commercial taxes, at one time, the machinery for refining oil or gaseous carbides of hydrogen and for manufacturing all kinds of products having crude petroleum as a basis; the necessary piping for these industries, as well as the accessories for this piping, pumps, iron or wooden tanks, iron or wooden barrels, gasometers, and material required for the buildings destined to be used in the exploitation; these importations being subject to the provisions and rules issued by the Department of Finance and the Treasury.

Art. 277. The concessionnaire shall have preferential right to the purchase of national lands required for the erection of their machinery and offices, at the tariff price.

Art. 278. They shall, furthermore, have the right to lay pipe lines across private property whenever indispensable, for the purpose of carrying the products of their exploitation and to facilitate same, provided this is not done with the object of establishing a service for the consumption of such products.

Art. 279. In the case of pipe lines laid across private lands, the procedure will be as follows:

The Contractor or party interested shall request of the Department of Finance and the Treasury, attaching to his request the report of some competent engineer, that it declare that for the purpose of the exploitation it is necessary to connect, by means of pipe lines, the points or localities indicated. Upon this declaration being made, the Contractors may demand of the owners of the lands

over which the pipe line is to be laid, that this be allowed, without any other obligation on their part than that of paying an indemnity equivalent to the prejudice caused by the laying of said pipe line.

Art. 280. The Department of Finance and the Treasury may refuse the request, but to do so or to make the declaration mentioned in the preceding paragraph, it will take into account the nature or importance of the company, the mercantile condition and the greater or lesser facilities of communication existing in the localities and, in general all the facts on which the necessity for the installation of the pipe lines may be founded.

Art. 281. Should the owners of the land oppose resistance to the Contractor or should not agree regarding the place where the pipe lines are to be located or regarding the amount of the indemnity, the contractor shall appeal to the Circuit Judge, who will decide the question, taking into account the following:

1. That the owners of the land have the right to designate where the pipe line should be.

2. If it should be deemed upon expert report, which in any case can be obtained in accordance with the judicial code, that the laying of the pipe line at the point indicated is onerous for the company and impracticable, the owners of the land may be directed to indicate some other point.

3. That if this point should be qualified in the same manner, the Judge will then indicate the point which he deems most convenient, contriving to conciliate the interests of the parties.

4. Should there be other lands suitable for the laying of the pipe line, the point chosen shall be that where the cost of installation would be least, and if the cost should be the same at all points, the Judge shall designate that at which the pipe line shall be laid.

Art. 282. In fixing the amount of the indemnity, the provisions of the Judicial Code shall be followed.

Art. 283. All expenses connected with the exploration permits and the licenses for exploitation, expert fees, drawing of plans, etc., shall be for the account of the person or company in whose favor they are issued.

Art. 284. Companies established by virtue of this Chapter, shall be under the obligation of rendering yearly reports to the Department of Finance and the Treasury, covering the last fiscal year, on each and all of the branches of the exploitation, and especially on the statistics of their products, the expenses of the business, the general balance and on such other points as may be designated by said Department. Lack of compliance with this obligation shall be punishable by a fine of 250 Balboas, according to the gravity and frequency of the omissions.

Art. 285. Contractors obtaining licenses for exploitation shall be obliged to pay to the general Treasury in return for the privileges granted them under the present Chapter, 5% of the gross product of the business, in accordance with the regulation to that effect that may be issued by the Executive Power.

Art. 286. In no case will permission be granted for opening wells for exploration purposes or for the extraction of gaseous carbides of hydrogen within towns or at a distance of less than 300 meters. Neither will there be allowed to be opened around wells drilled for the purpose of discovering a deposit of oil or of gaseous carbides of hydrogen on land comprised within 1,000 meters in length and 400 meters in width that might have been granted as a claim to the discoverers.

SALVADOR.

CONTENTS.

	Page.
Ownership of minerals.....	517
Concessions prolonged—Royalties.....	517

OWNERSHIP OF MINERALS.

APRIL 18, 1918.

Art. 1. The legislative decree of April 19, 1899, regarding the ownership (propiedad) of mineral bodies of any kind is hereby repealed in all its parts.

Art. 2. Consequently, the State owns all the minerals or substances which in veins, layers, masses, or beds constitute deposits whose nature is different from the components of the land, such as minerals from which metals and metaloids used for industrial purposes are extracted; beds of precious stones; products derived from the decomposition of rocks when their development requires underground work; phosphates which may be used for fertilizers; solid mineral fuels, petroleum, and all hydrocarbons—solid, liquid or gaseous.

Art. 3. Mineral products of an earthy nature, such as silicean rock, construction rock, earths, clays, limestone lands of all kinds, and salt mines belong to the owner of the land in or on which they may be found.

Art. 4. This subject shall be governed by the Mining Code of March 22, 1881, with its amendments, in so far as it does not conflict with the present law.

Art. 5. The effects of this law shall not prejudice the rights of surface owners who may have previously discovered and reduced to possession mineral veins within their respective properties, nor the legitimately acquired rights of third parties.

CONCESSIONS PROLONGED—ROYALTIES.

WHEREAS:

The industrial development directly depends upon the obtainment of abundant combustibles, and the enormous advantages that might result to the Nation by demonstrating the existence of crude oil, in view of the capital that must be invested in such an enterprise, it becomes necessary to guarantee in some way the concession previously granted for said purpose

THEREFORE:

In exercise of its constitutional faculties and by initiative of the Supreme Executive Power;

BE IT ENACTED:

Art. 1. Prolong until the 31st of December of the year 1929, the concession dated June 4th, 1913, which expires on the 4th day of June 1923, and issued by the Honorable National Congress to Engineer Emilio Mosonyi.

Art. 2. Declare that the said concession granted to Engineer Mosonyi is the only one in force, and unquestionably embraces and grants the right to the exploration and exploitation of the hydrocarbons and of the crude oil, by means of deep well borings mentioned in the first article of his contract.

Art. 3. Grant to the concessionaire the right to make studies, explorations and exploitations in any unexploited land or subsoil that he may see fit, in-

demnifying the property owners, in accordance with the mining laws, for any damages and losses caused by him, and the concessionaire shall have the exclusive right during thirty years to exploit any deposits discovered by him, free of any taxation whatsoever.

Art. 4. Also grant the exclusive right free of taxation to lay pipe lines, and build conduits in order to transport to the railway stations, ports, etc., the oil that might be discovered, and to construct the buildings, depositories, to make the installations and import the necessary machinery and material for refining the crude product of the petroleum wells without any taxation whatever during that period in conformity with Article three of this concession.

Art. 5. The concessionaire on his part obliges himself to procure ample funds and to make not later than next year, the studies and explorations, and shall in due time make the borings to endeavor to demonstrate the existence of crude oil in the country.

Art. 6. Furthermore, during the period of said concession as prolonged by the present act, the National Government shall receive ten per cent of the gross product that the concessionaire may discover and succeed in exploiting.

PASSED in the Assembly Chamber of the Legislative Department, National Capitol, San Salvador, on the thirty-first day of July, the year of our Lord, 1919.

LUIS REVELO,

President.

J. IGNO. CASTRO,

1st. Pro-Secretary.

FRANCISCO G. CRUZ,

2d. Pro-Secretary.

National Palace, San Salvador, 13th of August, 1919.

Let it be executed.

JORGE MELENDEZ,

Secretary of the Interior and Public Works.

M. T. MOLINA.

SOUTH AMERICA.

CONTENTS.

	Page.
Argentina	520
Bolivia	521
Brazil	523
British Guiana	535
Chile	545
Colombia	562
Dutch Guiana	575
Ecuador	575
French Guiana	577
Paraguay	578
Peru	579
Uruguay	600
Venezuela	603

ARGENTINA.

CONTENTS.

PRESIDENT'S MESSAGE REGARDING LAW FOR PETROLEUM EXPLOITATION.

NOTE.—Argentina at present has no law governing petroleum exploitations. In October, 1919, the President of the Republic, by message, called the attention of the Congress to a law just submitted and advising new legislation with regard to the State petroleum workings.

This message was, freely translated, in part as follows:

The importance of the petroleum deposits of Comodore Rivadavia and Plaza Huincul, as also the presumption that there exist in the country other deposits of this valuable fuel, call for and render necessary the adoption of an organic law to prescribe the form in which the State shall carry out the said mineral workings and the manner in which it shall intervene in those which may be started in the future.

There should thus be established: the manner in which these official petrolific workings shall be administered, the fixing of their permanent and their working capital, the form of increasing it and the reserve funds, as also the destination to be given to the special funds to provide for the renewal of working materials. for extraordinary amortizations, surveys, explorations and extensions, as also the application and destination of the profits.

By intensifying the petroleum working, by means of the capital available, an increase in yield would necessarily occur, and in consequence an increase in the receipts, to the amount of which would have to be added the proceeds of the by-products and derivatives obtained from the distillation of the petroleum.

But if the considerable increase which ought to occur from receipts under these headings were still insufficient to place the State workings in a condition to respond efficaciously to the demand for petroleum and its derivatives in the country, it would then be necessary to provide other resources which permit of the development of a more intense action tending to meet those requirements.

BOLIVIA.

CONTENTS.

COMPILATION OF MINING LAWS.

PUBLISHED IN 1916.

* * * * *

Article 2. The State enjoys the ownership of all deposits, layers, strata or other beds of inorganic substances, such as * * * petroleum, and other non-metalliferous substances capable of being used for industrial purposes, whether found in the interior of the earth or on the surface thereof.

* * * * *

Article 6. Whether the surface belongs in private or public ownership, the owner thereof does not lose his right thereto and may enjoy it, except in the event of expropriation; the subsoil which is under the control of the State may, according to circumstances and without any other ground than that of expediency, be abandoned by him to the common enjoyment, ceded to the owner of the soil or transferred to any applicant, by means of a license, subject to provisions to be established.

* * * * *

Article 9. In lands of the public domain and in privately owned lands not enclosed, prospecting may be done without license, and excavations and digging shall be permitted. In privately owned lands that are enclosed no prospecting may be done without the permission of the owner or by judicial license on payment of compensation. Prospecting is forbidden in buildings, orchards, and gardens of public or private ownership.

* * * * *

Article 16. Any person in the exercise of his civil rights may obtain one or more claims by means of a single concession for known minerals, and only 30 claims in the case of recently discovered minerals. The claims which form a concession should be grouped together without interruption, so that the adjoining claims shall be united in the whole length of any of its sides.

* * * * *

Article 21. The person who wishes to obtain one or more holdings, will present his request in person or by attorney before the Prefect of the Department, setting forth clearly: 1. His name, residence, and profession; 2. the name which is to be given to the concession; 3. Punto de partida (either point of discovery of a vein, or, probably, point of commencement of survey) which must be shown either outside or inside, according to the case, determining when possible the direction and distance from some other undoubted and fixed point; 4. the number of claims which he wishes to acquire; 5. the mineral region to which the claims belong, indicating whether it is known as such or whether it has to do with a recently discovered district; 6. the names of the adjoining miners, if there are any, and the respective positions of their claims; 7. The

name of the owner of the surface, if in private ownership. (D (decree) of October 28, 1882, 7.)

NOTE: Applications which do not comply clearly with the conditions of art. 7, Regulation of Oct. 28, 1882 and art. 4. of Decree of May 8, 1900 will not be considered until fault is corrected.

The applicant for a mining claim can not be excused from complying with the obligation to set forth clearly the points contained in art. 21 of the Mineral Compilation, summed up in the formulas attached to the circular of August 1, 1911, without which requirement the petition will not be acted upon. (Circular of March 6, 1914.)

According to art. 6 of the law of Dec. 14, 1906 (art. 60 of the compilation) the Prefects are without jurisdiction to alter or change the point of beginning of survey as given by applicant in his first application.

The supreme resolution (Supreme Court decision (?)) of March 9, 1915, declares that the designation of the points or requirements prescribed in the article referred to, may vary. The following is the original text: "It is declared that modifications may be made, before the publication of a mineral petition, which must be published with the first act of the petition or in the order required for the operations of measuring, establishing boundaries, and securing possession."

The meaning of this resolution is understood to be none other than to permit the correction or modification of errors or accidental omissions which refer to the state, residence or professions of the applicants, to the names of the persons, to the owner of the soil, or other similar circumstances; but not to substantial circumstances, such as variation of the characteristic marks of the location of the place, the modification of the point of beginning, the broadening of the limits of the mine requested, etc., to the prejudice of third parties.

Article 23. In addition to the requisites to be complied with in filing the petition for a concession of claims, in accordance with Article 21, in petitions for nonmetalliferous inorganic substances, the substance contained in the land applied for shall be clearly set forth and a sample thereof shall be deposited in the museum located at the point and in its absence in the Department, together with a document authorized by the Secretary of the Prefecture in which all the conditions of filing are set forth.

* * * * *

Article 79. Concessions are ad perpetuam, on payment of a license fee of four bolivianos per hectare.

BRAZIL.

CONTENTS.

	Page.
Management of mines.....	523
Preliminary regulations.....	523
Ownership of mines.....	524
Discovery of mines.....	524
Mine prospecting.....	525
Working of mines.....	527
Neighborhood and service of mines.....	528
Mines belonging to the Union.....	529
License for prospecting.....	529
Concessions for mining.....	530
Annulment and extinction of concessions.....	532
Police service of mines.....	533
General rules.....	533
Transitory rules.....	534

DECREE NO. 4265 OF JANUARY 15, 1921, REGULATING THE OWNERSHIP AND THE EXPLOITATION OF MINES IN BRAZIL.

(Official Gazette, February 10, 1921.)

PART I.

MANAGEMENT OF THE MINES.

CHAPTER I.

PRELIMINARY REGULATIONS.

Art. 1. The provisions of this law are applicable to all mines existing in this country, to all strata of recognized value or of supposedly industrial value, to all works required for their exploitation and to installations and subterranean and superficial workmanship for mining and treating ores.

Art. 2. For the purpose of this law, mines are considered to be not only the mines proper, but layers or strata of natural concentration to be found on the surface or within the earth, composed of valuable substances for industry, which can be exploited with economical advantage, containing or not metallic or semi-metallic elements and the respective ores, combustibles, fossils, gems or precious stones and other substances of important industrial value.

Art. 3. (Applies to quarries only.)

Art. 4. Any doubts arising as to the legal classification of minerals shall be decided by the Ministry of Agriculture, Industry and Commerce, upon hearing the Superior Council of Mines.

CHAPTER II.

OWNERSHIP OF MINES.

Art. 5. A mine constitutes immovable property, an accessory of the soil, but apart from the same.

Sole paragraph. The articles considered as a part of the mine are those permanently destined to its exploitation such as shafts, masonry work, subterranean and superficial constructions, machinery and instruments, animals and vehicles used in the mines, the materials used for working the mines and stored provisions.

Art. 6. The mine owner shall be allowed to separate the mine from the soil in order to lease, mortgage or alienate same and may also do so regarding the ownership of the soil, reserving that of the mine for himself.

Art. 7. In lease contracts, in emphyteuses or in leases at a quit-rent of the soil, the right to exploit the mine, in case it exists, is not transferred but shall always belong to the owner. Any transfer of the right of exploitation shall be subject to a special contract.

Art. 8. The lessee of the mine shall not sub-lease it without the consent of the lessor.

Art. 9. The transfer of the temporary ownership of the mine shall only be realized by handing over same to the original proprietor, but the exploitation of same may be passed over to a third party—free of charge or for a certain price.

Art. 10. (Applies to part-ownership of mines and divisions of the same).

Art. 11. (Provides for sale on liquidation of a corporation owner).

Art. 12. In each notary office for the registration of deeds, there shall be a special book for the registering of mines.

The entry in the 'Registry of Mines' ratifies the property, whether wholly by ownership of the soil or partially acquired by right of part-ownership, by discovery or other lawful origin.

Sec. 1. Private parties or legal entities in whose name the mine shall have been registered, shall have the right to work same or to obtain concession for said purpose.

Art. 13. Mines may be disappropriated for industrial exploitation under terms of Art. 590, Secs. 2, 4, of the Civil Code.

Art. 14. In the lease of mines, the suspension of work may cause the annulment of the contract.

Art. 15. The rental or the disposal of lands belonging to the Union shall not include the ownership of mines, except by a special clause.

In cases omitted in this law the property of the mines is regulated by the provisions of the common law.

CHAPTER III.

DISCOVERY OF MINES.

Art. 16. To reveal unequivocal signs of the existence of a new mine or strata shall constitute the discovery of same.

Art. 17. All persons, either national or foreign residing in Brazil, as well as any corporation or company legally constituted, may register the discovery of a mine.

Sec. 1. The registration of a document shall be made by the official in charge of the registry of deeds of each district, based upon a despatch by the judge of said district.

Sec. 2. The document must contain the precise nature of the strata and its topographical position, the name of the owner of the soil and all other indications which shall be required under the provisions of this law.

Sec. 3. A certificate of the terms of said document entered in the 'Registry of Mines' shall be given, word for word, to the person presenting it, and a limit of one year allowed him for effecting prospects.

Sec. 4. The judge of the district shall send a certificate ex-officio of said document to the Ministry of Agriculture, Industry and Commerce, at the same time advising the proprietor of the discovery, and in his absence, the curator of absentees, demanding a receipt of said communication.

Sec. 5. The registration of the document shall only give right to prospecting in a limited area, determined by the regulations in accordance with the nature of the strata and other conditions.

Art 18. The same deposit of minerals may be the subject of more than one registration by different parties.

Sec. 1. The first party who makes a declaration shall have preference for a year to make prospects within the area allowed, and the others successively for the same length of time according to the order of the respective dates inscribed.

Sec. 2. Any of the parties may renounce his right to the period allowed in favor of the next in order of inscription.

Sec. 3. The right of prospecting is not transferable.

Sec. 4. If within 60 days from the date of the receipt of Communication referred to in Section 4, Article 17, the owner, the holder, or the part-owner take part in the declaration of mine discovery registration, he shall be given preference for carrying on prospecting, only however within a year from the date of inscription of his document.

Sec. 5. Independently of the communication of the judge, the owner, holder or part-owner inscribed shall have preference over any other party during the same length of time.

CHAPTER IV.

MINE PROSPECTING.

Art. 19. All work having in view the verification of the existence and economical capacity of the mine from the surface excavations to the sounding and opening of shafts and galleries, is as prospecting or sounding.

Art. 20. Prospecting may be effected without order of preference by the following:

(a) The Government of the Union;

(b) The Proprietor;

(c) One or more part-owners in the property *pro indiviso*.

(d) By a competent third party authorized by the proprietor or by any part-owner in the property *pro indiviso* and by making the declaration, legally constituted.

Art. 21. The prospecting effected by the Government of the Union shall take place after being recognized as of public utility.

Art. 22. The Government shall communicate with the proprietor before commencing to prospect.

In case said proprietor prefers to do so on his own account, a time limit of a year shall be allowed him under the terms of Section 4, Article 18, of this law. This preference not having been verified or the time having elapsed without prospecting having begun, he shall be previously indemnified, if he demands it, of all damages incurred by the use of his property.

If he refuses an indemnity, the legal value determined upon shall be consigned to him.

Sole Section. In effecting this indemnity all rules applying to the construction of railroads of the Union, shall be followed after the necessary changes shall have been made.

Art. 23. The owner may prospect in the mines existing on his own lands, subject to the provisions and regulations of this law.

Arts. 24 and 25. (Have reference to prospecting by part-owners and the resulting rights.)

Art. 26. Any party registering the discovery of a mine may prospect in lands belonging to the Union after obtaining permission from the Ministry of Agriculture, Industry and Commerce.

Sole section. The dimensions of the surface and the time allowed for prospecting as well as the formalities and requirements of an administrative nature shall be determined by the regulations.

Art. 27. The party publishing the declaration may prospect on private lands after obtaining the consent of the proprietor.

Sec. 1. Should the proprietor agree to the prospecting, he shall determine with the declaring party the basis upon which these works shall be effected and those for utilizing the mine, independent of administrative intervention.

Sec. 2. Should the proprietor not consent to prospecting by the party declaring the discovery, the latter may make declaration and register the discovery before the district judge in accordance with sections 4 and 5 of Article 18, with a clear declaration that he shall bind himself to effect said prospecting within a year from the date of the inscription of same.

Sec. 3. Should the proprietor not carry out said prospecting within the year or should he declare at once that he does not desire to prospect, the district judge, with a petition from the party registering the discovery, shall re-validate the declaration of same, granting him a year in which to render effective the license for prospecting.

Sec. 4. For this purpose the judge shall order an appraisement of the damages which may be incurred by said prospect to the proprietor of the lands, and of the indemnity for occupation of the indispensable area.

Sec. 5. The sum having been determined by arbitration between the interested parties, in accordance with the regulations of this law, the party registering the mine shall deposit the total amount at the nearest federal receiving office.

Sec. 6. The deposit voucher shall serve as a document to enable the judge to draw up a summons to the proprietor, which in the form of a certificate shall constitute a definite license for prospecting; and from thereon any embargo shall not have suspensive action over the works.

Art. 28. The owner of the soil may sell the ores and substances extracted during the work of prospecting.

Art. 29. The party effecting the prospect, if not the owner of the mine, shall make use only of the ores and substances extracted during the work of prospecting for industrial analyses and tests, only being allowed to sell them after mining works are begun.

Sole section. The confirmation of the sale of said products shall be sufficient reason for a rescission of the consent given by the proprietor, or the revocation of the license for prospecting granted by the competent authorities.

Art. 30. Works of prospecting made for account of others shall be considered as that made under contract or paid by salary by such other or second parties.

CHAPTER V.

WORKING OF THE MINE.

Art. 31. If a mine shall have been prospected by the Government, the utilization of same shall be made in the following order :

- (1) by the owner of the land, who shall undertake the mining ;
- (2) by a third party through a yielding of the rights by the proprietor ;
- (3) by the Government, in case the proprietor shall not effect mining himself, said government effecting the service of strictly mineral exploitation by administration ;
- (4) by third parties in virtue of a Government concession.

Sec. 1. In the hypotheses of (1) and (2), the proprietor shall make no payment to the Government, except in the case mentioned in the last part of Article 22, in which case in order to begin the mining work, he shall return, apart from the indemnity determined half of the amount expended in prospecting.

Sec. 2. In the hypotheses of (3) and (4), the owner of the soil shall at his option receive indemnity for the property or a percentage of the net profit of exploitation, which shall not exceed 3%.

Sec. 3. The value of the area indispensable to the mining works as well as that of the mine or layer, shall be included in the appraisement of the property to be indemnified, taking into consideration for the estimate to be made of the latter, all circumstances which it may be possible to determine such as underground waters, the nature of the ore, the richness of the strata, at least in contrast to others of the same kind existing in the same region, the mining facilities, means of transportation and the respective distances to the markets and all the special characteristics of the layer or stratum.

Sec. 4. In case of a formal refusal on the part of the owner to consent to the working of the mine, the Government shall exploit same on its own account or through a third party after having effected the disappropriation of same based upon a previous indemnity determined in accordance with the foregoing paragraph.

Art. 32. Prospecting having been made by the owner of the soil, said owner may have the mine entered in the list of mines in the Ministry of Agriculture, Industry and Commerce, with an indication of its denomination and characteristics, namely ; the exact situation of the mine, its approximate extension, the quality of the ore. it being preferable that the communication be accompanied by drawings and samples for analyses and tests.

Sec. 1. The mine having been entered in the proper book, an authentic certificate of the entry shall be given to the owner with the proviso that the works shall commence within a year counting from the date of registration and subject to the regulations of this law.

Sec. 2. A receipt shall be given by the Ministry upon receiving the documents for the entry of the mine on the list. Based upon this receipt the owner is authorized to effect the mining of same within a year from the date of the receipt.

Sec. 3. If at the end of the year's limit, the proprietor shall not have been able to commence mining by reason of unforeseen circumstances to be justified before the official of the Ministry, he may be granted an extension for another year, which shall not be renewed.

Sec. 4. The above mentioned limit of time having elapsed, or rather should the proprietor declare his intention of not effecting the mining works, a note of said declaration shall be entered in the book and the mine considered available to others.

Art. 33. Should the proprietor making prospects have one or more mines in operation, the new layers existing in his property shall be considered as reserve for the guarantee of capital invested in the exploitation. The term for starting mining in these strata shall be extended to 10 years at the maximum.

Arts. 34, 35, 36, and 37. (Apply to part owners.)

Art. 38. If prospecting is done by a party declaring the discovery, said party shall petition to the judge of the district for his title as discoverer of the mine.

For this purpose, besides the documents mentioned in Article 32, he shall present the following:

- (1) A certificate of declaration;
- (2) A definite license to prospect;
- (3) Proofs that he prospected as shown by designs and descriptive memoranda of the deposits, reports of the works done and samples showing the nature and substance of the ores;

(4) Plan of the surface lands required for the installation of the mining works indicating particularly the work improvements existing thereon.

Sec. 1. The documents demonstrating the right of the discoverer having been found correct, the judge shall issue edicts summoning the proprietor, the holder of the soil, or these failing, the curator of absentees, to order an appraisement of the superficial lands, indispensable to the mining works, and of the improvement works, for payment of indemnity to the owner, as well as the appraisement of the ownership of the mine or layer, observing the rules of Section 2, second part of Article 31 of this law.

Sec. 2. In order to decide doubts and claims regarding technicalities, sole paragraph of Article 35 of this law shall be observed.

Art. 39. Having determined the value of the lands required for mining and that of the property of the mine or layer and questions decided between the discoverer and the owner of the soil, the judge shall draw up a deed of discoverer for said party, who shall in this way be assured of the right to half of the property of the mine.

Art. 40. The owner may then associate himself with the discoverer in the mining works. In case he does not wish to do this, besides the indemnification mentioned in Section 1 of Article 39, he shall have a right either to receive a percentage of the net profits of the exploitation which shall not exceed 3%, or to a quota per ton of the ore or substance extracted which shall not exceed 3% of the net profit of the sale of the whole.

Sole section. In order to guard his interests, the proprietor may exercise full supervision over the bookkeeping without, however, interfering in the industrial exploitation of the mine.

Art. 41. The mining works having been begun by the discoverer, said works shall not be interrupted by the laying of any embargoes.

CHAPTER VI.

NEIGHBORHOOD AND SERVICE OF MINES.

Art. 42. For prospecting and mining works, service regarding the soil and subsoil is established in the neighboring property or properties.

Sec. 1. On the surface, the party making the prospect, or exploiter may occupy the necessary lands on the neighboring property for:

- (1) Construction of workshops, accessory works and dwelling houses for laborers;
- (2) Opening of ways for communication and transportation of any kind;

- (3) Canalization of waters required for the laborers and service of the mine;
- (4) Transportation of electric power in overhead or underground conduits;
- (5) Outlet of water from the mines and workshops for washing ores.

Sec. 2. In the sub-soil, service shall be established for the passing of personnel and material, conduits for ventilation and electric power and outlet of water for neighboring mines.

Art. 43. The right of service of waters not used for agricultural or industrial purposes of the properties on the surface shall be recognized.

Art. 44. All service shall be established based upon previous indemnification amounting to the value of the land occupied and of damages resulting from said occupation.

Sole section. Should the works be urgent, service shall be established by the payment of a previous guarantee determined upon by experts according to law.

Arts. 45, 46, and 47. (These apply to underground workings of mines.)

Art. 48. Any damage incurred to a third party, either through superficial or subterranean works, shall be to account of the owner of the mine.

Art. 49. In case of contamination arising from the mining, of the water supplies, streams or rivers, resulting in claims from the owners of property and neighbors, the Government, after hearing the proper departments of Public Health and others shall give the necessary instructions and take measures to avoid any public damage, having in mind as far as possible the economical conditions of the working of the mine.

PART II.

MINES BELONGING TO THE UNION.

CHAPTER I.

LICENSE FOR PROSPECTING.

Art. 50. In order that any individual or corporation shall make prospects in lands belonging to the Union, a license is necessary from the Ministry of Agriculture, Industry and Commerce, under the following conditions:

(1) The party shall declare in his petition the nature of the ores, the locality in which the prospects shall be made and the number of lots required. After being attended to, he shall mark out on the land the area determined in the license.

The measure of mineral lots shall be by hectares.

Sole Section. For works in river beds or along the sea coast, the lots shall be a kilometer in length, measured according to the centre of the river or the line of the sea coast.

The number of connecting lots for which license can be obtained for each kind of layer, shall be established by the regulations of this law.

Prospects made near fortifications, public roads, railroads, supplies of drinking water, or public squares or parks shall only be allowed with the special consent and supervision of the proper authorities.

Prospects in river beds or lands along the coast shall only be allowed with the consent and special supervision of the authorities superintending navigation, or of those in charge of the National Domain.

Use may be made in prospecting of materials for construction and lumber existing in the licensed area indispensable to the service.

Use may also be made of the neighboring waters, without damage to the former services.

The rights of third parties shall always be respected in prospecting, in order that at all times those holding the license shall be responsible for damages to neighboring proprietors or prospectors.

The party holding the license shall have the right to dispose of small quantities of the ores and substances necessary for analyses and industrial tests, and may only sell them after the work of mining begins.

The term for prospecting shall be one year, subject to extension by the Government.

A fixed annual tax which shall not exceed two milreis (about \$0.50) per lot shall be levied on the license for prospecting, as well as the stamp tax on the petition and deed.

Art. 51. The license for prospecting shall be personal and only transferable in case of necessary heirs and surviving husband or wife, as well as in commercial succession.

Art. 52. The actual lessees of federal, state or municipal lands shall pay license to make researches.

Art. 53. The party declaring a discovery shall not pay the annual tax per lot, being merely subject to stamp taxes.

Art. 54. The distances which should separate the areas of the new licenses from the former ones shall be dependent upon the rules established in this law and especially in the clauses mentioned in the licenses already granted.

Art. 55. If at the end of a year the prospector's petition for an extension of the term, the Government may grant him the same for another year.

Art. 56. Should the prospects be of no effect the party holding the license shall communicate with the Ministry, giving an account of the works done; and should cover or enclose the excavations made and turn the waters to their natural course if so required by the existing services.

Art. 57. If at the end of a year the party holding the license shall not have begun the works, he shall lose the right to the license, and the lots shall be declared vacant.

CHAPTER II.

CONCESSIONS FOR MINING.

Art. 58. The licensed prospector after verifying a remunerative layer or stratum shall communicate the fact to the proper Ministry, presenting topographical and geological plans and a memorandum indicating the location of the stratum, the description of same, the nature of the ore and samples in sufficient quantity to give an idea of the value of same.

Art. 59. The technical department of the Ministry shall draw up an account of the receipt of the documents and samples and deliver a certificate to the prospector as a guarantee of his rights.

Art. 60. Having satisfied the requirements of Article 50, should the prospector petition for a concession, the Ministry through the proper channels shall order the request published in the Official Gazette at the same time communicating with the judge of the district in which the mine exists, in order that the same shall have the petition published in edicts during 90 days at least. The situation and dimensions of the area to be granted, its boundaries, as well as the nature of the stratum, shall be clearly defined in these publications; they shall serve as summons with a term of 90 days to interested parties to whom the concession may cause damage, so that they may present their claims.

Sec. 1. The term of the edicts having elapsed, there being no claims presented or should the judge not find any reason for same he shall advise the Government in order that it shall order the granting of a mining concession.

Sec. 2. All questions as to the legitimacy or legal capacity of the pretender as discoverer or prospector shall be determined by the judicial power, the concession being granted only after the settling of these questions.

Art. 61. The granting of the mining concession shall be made based upon the following general clauses, besides other special ones, which shall be stipulated by agreement with the concessionaire:

1. The term shall be of 50 years at the most, subject to extension at the will of the Government.

2. The size of the lots shall be the same as those for making prospects. The maximum areas of the concessions shall be determined in the regulations for each type of stratum.

3. The concession can not be transferred except by permission from the Ministry in case of succession of heirs and surviving wife or husband, or commercial succession.

4. The concessionaire of the mine has the right to all the mineral substances found in his lots. For those not declared in his deed of concession the right shall be confirmed by a communication to the Ministry of the new discoveries which shall be registered in addition to the first concession.

5. The concessionaire of the mine shall pay besides the stamp tax on the concession an annual tax corresponding to each lot. These taxes shall be determined in the regulations.

6. Besides this permanent tax, there shall be a tax levied on the annual production of the mine, which should be determined by the proper authorities for each case and period of time in accordance with the nature and substance of the ore and amount of production.

7. The mining works shall begin within a year except in case of unforeseen circumstances, fully justified and accepted by the Government.

8. The mining works can not be interrupted for more than six months without full justification accepted by the Government.

Art. 62. Should there be more than one claimant to the concession, the discoverer of the layer who has fulfilled the requirements of Article 39, shall have the preference over the others.

Art. 63. To the prospector who has fulfilled the requirements of Article 63 (?), and who within a year's time has declared that he can not or does not wish to do the mining, shall be given the right to receive from the new concessionaire not only the payment of expenses but also a premium for the discovery and valorization of the mine. This premium which may be in cash or a percentage of the net profits of the exploitation, or an amount per ton of the ore mined, shall be decided upon and established between the interested parties.

Sole section. No new concession shall be granted within this time, except upon a showing of the document proving that the discoverer and the new concessionaire reached an agreement as to the rights of the first.

Art. 64. The discoverer, qualified since the declaration of his discovery, who has made prospects and fulfilled all requirements in compliance with the regulations, shall only pay the stamps on the concession. If during the period of ten years, he should effect continued mining works according to regulations, he shall become exempt from the permanent tax on the lots and from the tax levied on the annual production of the mine.

Art. 65. In decrees granting concessions shall be mentioned:

(1) Favors granted;

(2) Assessments levied on the concessionaire;

(3) Legal penalties which he may incur.

Art. 66. Should the work of mining be prejudicial to the public welfare or run counter to interests which fulfill the advantages of the industrial exploitation, the concession shall be refused.

Sole section. In the latter case the prospector shall have the right to receive from the Government the indemnity covering the cost of prospecting with interest added.

Art. 67. In lands belonging to the Union the work of those gathering ore performed by one or two persons, in mining ores from the rivers or streams, by means of temporary installations and simple arrangements, shall be entirely free.

Sole section. Within the area granted for prospecting or for mining, the work of those gathering ore shall be subject to permission by the concessionaire.

CHAPTER III.

ANNULMENT OF, FALLING INTO DISUSE AND EXTINCTION OF, THE MINING CONCESSION.

Art. 68. The concession made with infraction of rules of this law shall be considered void.

Sole section. The annulment shall be declared by judicial sentence after summary action. The annulment may be requested by the following:

(1) The official publication of the administration;

(2) Any party interested, within a year's time.

Art. 69. The falling into disuse or escheat of the concession shall be declared through an act issued by the respective Ministry after hearing the Superior Council of Mines.

1. When the limit determined upon in the concession shall be exceeded, except in case of unforeseen circumstances, acknowledged and accepted by the Government.

2. Should the mine be abandoned or the work interrupted for more than a year except in the hypotheses above mentioned.

3. By the nonpayment of taxes due during two consecutive years.

4. Should the concessionaire be declared incapable of continuing the works by himself or his legal representatives.

5. Should the concessionaire not comply with the orders, decisions or instructions included in the decree of concession or in the laws and regulations in force.

Art. 70. The escheat having been verified and existing improvements works belonging to the concessionaire, he shall have the right to an indemnity amounting to the value of same, being deducted, however, the price of materials ceded freely by the Government and the total amount which he may have received as favors.

Sole section. The indemnity shall be paid by the Government; in case of a new concession, however, the reimbursement to the Government shall be therein established.

Art. 71. The concession shall be considered extinct:

(1) By renunciation of the concessionaire;

(2) By the death of the concessionaire; except in cases mentioned in Articles 61, 3;

(3) By allowing the time to run out.

PART III.**ONLY CHAPTER.****POLICE SERVICE OF THE MINES.**

Arts. 72-83. (This Chapter as its title indicates regulates the workings of actual mines.)

PART IV.**CHAPTER I.****GENERAL RULES.**

Art. 84. All rules and regulations of this law are applicable to lands sold or leased by the Union regarding the declaration, prospecting and mining.

Art. 85. The party holding a license for prospecting as well as the mining concessionaire shall be responsible for indemnities to the proprietor or lessee of the surface of the land for any damage which may occur in the works of prospecting or mining.

Art. 86. All concessions granted for prospecting and mining which are in effect upon the date of this law, shall continue in force.

Art. 87. All concessions prior to the date of this law and whose concessionaires have not complied with clauses stipulated upon for the effective exploitation within the periods determined, shall be declared in disuse.

Art. 88. The renewal and extension of concessions in force shall be done according to this law.

Art. 89. Mining companies incorporated under the rules of this law shall enjoy the following terms:

(a) Exemption from import duties for machines, apparatus, tools, molds and articles of consumption not to be found in the country under the same conditions, said importation being supervised by the technical agents of the Ministry of Agriculture, Industry and Commerce without charging the interested parties for the respective certificates;

(b) Minimum tariff rates for transportation railroads, navigation companies, and dock services and transferring at ports, expenses being paid and guaranteed by the Government, not only for transportation of laborers but also for materials, ore, combustibles and manufactured products.

Art. 90. In order to enjoy the favors mentioned above, the companies already in existence shall comply with the rules and regulations of this law.

Art. 91. Only private parties or companies who bind themselves to the following shall enjoy the favors referred to in (a) and (b) of Article 89:

1. To take into their service the greatest possible number of national engineers.

2. To employ the largest amount possible of national laborers.

3. To maintain one or more schools for laborers and their children in the neighborhood of the establishment.

4. To found hospitals and maintain them.

Art. 92. Lands acquired for the special service of mining on which the respective owners prove that they (hold) one or more mines undergoing prospecting or being exploited, shall be exempt from disappropriation based upon industrial utility or prospecting by a third party.

Sole section. For this effect, the owners shall submit to the proper authorities measures and plans indicating the boundary lines of the property and the locality of any layers subject to industrial exploitation.

Art. 93. The Superior Council of Mines shall be created and charged with the study and reports on all technical and economical questions as well as those of private law concerning mining and not entirely decided by the Ministry.

SEC. 1. This council, which shall be presided over by the Minister of Agriculture, shall have as members the directors of the Polytechnic School and the School of Mines, the professors in metallurgy and mining sciences of the same school, the director of the Geological Survey of Brazil, three representatives of mining companies of the Nation and the Counselor-General of the Republic.

SEC. 2. The work of the bureau of this Council shall be in charge of the director of the Geological Survey.

SEC. 3. The council shall be for the purpose of consultation.

SEC. 4. The reports shall be made in writing and no special remuneration for this work shall be given to the employees forming part of the Council, except free passage to those residing outside of the Federal District and who shall be obliged to be present at the meetings of said Council.

ART. 94. If any federal public river shall have been the object of any concession or mining contract on the part of the State government, the concession or contract shall remain in force, substituting that of the State for that of the Federal Government, the State Government being paid an indemnity for the expenses made by same for using the river.

ART. 95. The Government shall request the necessary credits for expenses incurred in the execution of this law.

CHAPTER II.

TRANSITORY RULES.

ART. 96. The sections of Geological, Survey and Mineralogy of Brazil, in the Ministry of Agriculture, Industry and Commerce shall be charged with all mining questions referred to in this law, until the creation of the Department of Mines.

ART. 97. The Government of the Nation shall transfer to that of the States, acting in accordance with this law, the privileges contained in same, in order that they shall be included by the respective administration in concessions relating to lands belonging to them.

ART. 98. In the regulations issued for the execution of this law, the Government shall consolidate the rules of the laws applicable to development of mining.

ART. 99. All regulations to the contrary are hereby revoked.

BRITISH GUIANA.

CONTENTS.

	Page.
Crown Lands Regulations, 1919-----	535
Application for grants, leases, licenses, etc-----	535
Surveys-----	538
Sale of preferent claims in case of plurality of applications-----	539
Grant to small cultivators-----	540
Leases—Special leases-----	540
Leases and licenses to cut wood-----	542
Licenses for quarrying stone, gravel, kaolin and other clays-----	543
Miscellaneous provisions-----	543
Supplemental provisions-----	543

THE CROWN LANDS REGULATIONS, 1919.

PRELIMINARY.

1. These regulations may be cited as the Crown Lands Regulations, 1919.

PART I.

APPLICATION FOR GRANTS, LEASES, LICENCES, OR PERMISSIONS.

2. (1) Every application for a grant or lease of Crown land or for a licence or permission in respect of or over any Crown land, shall be in writing signed by the applicant, and shall be addressed to the Commissioner.

(2) The application shall state distinctly the name of the person for whose benefit the grant, lease, licence, or permission is sought to be obtained, whether such person is the actual applicant or not, and the purpose and term of years for which the lease, licence or permission is desired.

(3) The application shall contain a description of the land to which it relates, setting forth as far as possible its situation, extent and boundaries, and the applicant shall also, if called on to do so, furnish such further information, if any, as may be required by the Commissioner for the purpose of determining whether there are any valid reasons why a grant, lease, licence, or permission should not be issued.

(4) Each applicant for a grant, lease, licence or permission, shall deposit with the application the prescribed fee on such application, and when a survey of the tract is required the survey fee shall also be deposited at the same time.

3. (1) The Commissioner may, where he deems it expedient, publish a notice of the application in the Gazette for three consecutive Saturdays.

(2) Any person who desires to oppose the issue of a grant, lease, licence, or permission shall give notice of opposition in writing, with the grounds thereof, to the Commissioner within seven days after date of the third advertisement.

(3) The Commissioner shall report to the Governor the particulars of any opposition of which notice has been given, and the grounds thereof, and the Governor may make such order thereon as to him shall seem just.

4. When any applicant for Crown land dies after his application is received and the purchase money or other fees have been deposited with the Commissioner the deposit may at the option of his legal representative be refunded less any costs that may have been incurred to such legal representative of the applicant, or the application may be proceeded with and the grant, lease, licence, or permission may be issued to such legal representative.

5. (1) If more applications than one have been made for a grant, lease, licence, or permission in respect of the same tract of Crown land (whether other Crown lands are or are not included therewith in any or all of the said applications) each application shall in all respects be treated as a separate application.

(2) If the preferent claim to such grant, lease, licence, or permission is to be set up for sale at public auction, a notice shall be published in the Gazette for three consecutive Saturdays, but every applicant shall deposit the fee payable on the application.

6. If any applicant for a lease or licence after the completion of the survey of the land applied for fails for two months after the demand made by the Commissioner to pay the rent due, his application may be cancelled when all previous deposits shall be forfeited and any other application may be proceeded with as if such first-mentioned application had never been made.

7. (1) Where the Commissioner has reason to believe that the rights of any other person will not be affected by any application for a grant, lease, licence or permission, he may grant leave to the applicant to take possession at once and for work to commence on the land applied for, and for the removal of any substance or thing therefrom, on his giving such security (if any) as the Commissioner may deem necessary to insure the Government against loss in the event of no grant, lease, licence, or permission being issued.

(2) Any leave so granted shall be at the risk of the applicant where, as a result of opposition or for any other reason, no grant, lease, licence or permission is issued.

(3) The grant, lease, licence, or permission if issued, shall be deemed to have commenced from the date of the granting of the leave.

(4) Any person may in the event of the Commissioner refusing to grant leave as aforesaid or if dissatisfied with the security required by him, appeal to the Governor against such refusal, or in respect of such security, and the Governor may either grant or withhold such leave, or may alter the nature of such security.

RENEWAL OF LEASES, LICENCES, OR PERMISSIONS.

8. An application for a renewal of a lease, licence or permission under these Regulations shall be dealt with as an original application.

9. (1) After the expiration of any licence or permission, the Commissioner may, on application from time to time, before the expiration of the licence or permission, if he is satisfied that all its conditions have been faithfully observed, and that the quantity of land not worked, or trees uncut or unbled (as the case may be) is not sufficient to warrant the applicant going to the expense of applying for a new licence or permission, and upon payment of the fee prescribed in the Schedule to these Regulations, renew or extend the licence or permission with all its conditions for a further term not exceeding one year.

(2) Any person may, in the event of the Commissioner refusing to grant such extension or renewal for a further term, appeal to the Governor against such refusal, and the Governor's decision shall be final.

REVERSION OF GRANTS, LEASES, LICENCES, AND PERMISSIONS.

10. Every grant, lease, licence or permission shall descend to the heirs and assigns of the holders for any unexpired term thereof after the death of such holder.

TRANSFERS, LEASES, AND MORTGAGES OF GRANTS.

11. (1) A grantee may, subject to the provisions of any ordinance relating to Crown Lands for the time being in force, transfer, lease, or mortgage the land comprised in his grant, or any part thereof as if such land was private land: Provided always that until such grant has been made absolute no such transfer, lease or mortgage shall be made until the Registrar, on payment of the prescribed fee, has obtained from the Commissioner a certificate to the effect that such grant is in force.

(2) No lease of such land, or of any part thereof, shall in any way relieve the grantee from the obligation of complying with the conditions to which his grant is subject, or in any way interfere with or prevent the forfeiture thereof, if any such condition is not complied with, and every lease of the said land or any part thereof, for any term exceeding one year shall be recorded in the Office of the Department.

(3) The Registrar of British Guiana shall make a weekly return to the Commissioner of Lands and Mines of all transfers, mortgages or leases passed under the provisions of any ordinance of land held under title from the Crown.

TRANSFERS AND MORTGAGES OF LEASES, LICENCES AND PERMISSION.

12. Every application for a transfer of a lease, licence or permission shall be in writing and shall state the particulars specified in, and comply with the requirements of regulation 2, and the applicant shall pay the fee prescribed in the schedule to these Regulations for filing the same, and when necessary the survey fee, and thereupon the Commissioner, shall publish a notice of the application in the Gazette for three consecutive Saturdays.

13. Any person may oppose any transfer on the ground that he has any right, title or interest in the lease, licence or permission or that he is a creditor for a liquidated sum of the person applying for such transfer to be made, and if such person give notice of opposition in writing to the Commissioner within seven days after the last publication of the notice, such transfer shall not be approved until the opposer has withdrawn his opposition or his claim has been rejected by a Court of law: Provided always that if within seven days after notice of opposition has been given legal proceedings to enforce such claim are not commenced and notice of them given in writing to the Commissioner, such opposition shall be no bar to the transfer. On production to the Commissioner of a certificate from the Registrar or the Clerk of the Magistrate's Court as the case may be that such claim has been satisfied or dismissed, the application shall be proceeded with as if no notice of opposition had been given.

14. If any notice of opposition has been given, or if there appears to the Commissioner any reason why the transfer should not be made, the Commissioner shall report the opposition, or his reasons why the transfer should not be made, to the Governor, who shall make such order as to the transfer as he may think fit, but no transfer of a lease, licence or permission shall be completed by the Commissioner unless the rent, if any, due for the current year has been paid, as required by the conditions attached to such licence or permission.

15. If no notice of opposition is given, and if no reason to the contrary appears to the Governor, the transfer shall be executed by the Commissioner.

16. On the sale at execution of the holder's rights under a grant, lease, licence or permission, the purchaser shall on production to the Commissioner of a copy of the conditions of sale signed by the Registrar of British Guiana, with a certificate that the purchase money has been paid, be entitled on payment of the prescribed fee for a transfer to have an entry made in the register of grants, leases, licences and permissions kept by the Commissioner of such sale and purchase and also to have endorsed on the face of the title that a transfer of the same has been made to such purchaser as aforesaid: Provided the Commissioner shall have power to oppose any levy or sale at execution in respect of leaves, licences or permissions on which any rent or other payment due to the Government under the conditions of such lease, licence or permission is in arrears.

17. (1) The holder of a lease, licence or permission from the Crown may subject to the provisions of any Ordinance relating to Crown Lands for the time being in force, mortgage his right title and interest in and to the land comprised in his lease, licence or permission; Provided always that no such mortgage shall be made until the Registrar has obtained on payment of the prescribed fee from the Commissioner a certificate to the effect that such lease, licence or permission is in force, and in the case of a lease for agricultural purposes for an area not exceeding 10 acres, in addition, that he, the Commissioner, approves of such mortgage, and provided further that no such mortgage shall be valid or of any effect for any purpose whatever, until notice of the execution thereof has been filled in the Office of the Department by the mortgagee.

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PART II.

SURVEYS.

18. (1) Subject to the provisions of Regulation 19, no grant or lease shall be made for any tract of Crown land, and no transfer of a lease or licence in respect of part only of the land to which it relates shall be made, unless the tract to be granted, leased, licensed or transferred has been surveyed by a surveyor of the Department or, with the approval of the Commissioner, by some other duly qualified surveyor, in which latter case the Commissioner shall refund to the applicant the survey fee prescribed in the schedule to these Regulations.

(2) Subject as aforesaid, if the preferent claim to any grant, or lease is to be set up for sale at public auction, the tract of land to which it relates shall be surveyed by or under the direction of a surveyor of the Department.

(3) If any land is surveyed by a surveyor other than a surveyor of the Department, the original diagram of such land in the form required by the Land Surveyors Ordinance, 1891, shall be delivered by him to the Commissioner together with the duplicate he is required to deliver by the said Ordinance.

(4) The Commissioner in any case of a survey to be made by a surveyor of the Department may permit any applicant to supply all labour, materials and appliances needed for the survey, and in such case the Commissioner shall on the completion of the survey refund to the applicant the actual cost of supplying labour, materials, and appliances required for cutting lines and for aiding the surveyor in making the survey.

19. (1) No survey of any land in respect of which an application is made shall be necessary if such land has been previously surveyed and the diagram of the tract, is on record in the Office of the Department, and the Commissioner is satisfied that the boundary lines are open and well-defined and in such case the applicant shall pay the prescribed fee for a certified copy of the diagram on record.

(2) The Commissioner may waive survey or direct that only a partial survey shall be made where the application is for a licence in respect of a tract of land bounded by creeks or other well-defined limits or the boundaries of which are otherwise well-marked, or for the renewal of a licence of a tract which has been already surveyed, or for a licence to collect rubber, balata or other gums or plants; unless the Commissioner considers in any of such cases that a survey is necessary.

20. (1) Whenever practicable, a tract to be granted or leased shall be in the figure of a rectangular parallelogram, and also whenever practicable the facade shall be either on a river, creek, road, or public canal.

(2) A tract to be licensed under Parts VIII, IX, or X, shall, if surveyed, be laid out in such a manner as will best enclose the trees or the stone, gravel, or similar substances required.

(3) Whenever practicable a space of sixty-six feet in width for Government roads or channels, by the entire depth, shall be reserved by the Crown within a distance of not more than 800 yards in facade, and a space of 66 feet from high water mark shall be reserved across the facade of each tract.

21. The surveyor shall place branded hardwood, iron, stone, or concrete paals at each extremity of the facade and of the depth of the tract surveyed, and shall cause a path, at least six feet wide to be cleared on each side of the same. One at least of the paals used for defining the boundaries of tracts to be granted, leased, or licensed for a longer period than five years, must be iron, stone, or concrete.

PART III.

SALE OF PREFERENT CLAIM IN CASE OF PLURALITY OF APPLICATIONS.

22. (1) In every case in which, under any enactment relating to Crown lands for the time being in force, any grant, lease, licence or permission in respect of any land is to be set up for sale at public auction, the Commissioner shall publish a notice in the Gazette setting forth the particulars relating to the intended grant, lease, licence, or permission, and stating the place and time (being not less than twenty-one days after the publication of the notice), at which the grant, lease, licence, or permission referred to therein will be sold; Provided always that where by these Regulations a survey of the land to which such grant, lease, licence, or permission relates is necessary before the issue thereof, the Commissioner may in his discretion require such survey to be made before such notice is published: Provided also that the name of any applicant for such grant, lease, licence, or permission shall not be stated in such notice.

(2) At the place and time mentioned in notice, the grant lease, licence, or permission referred to therein shall be exposed to public competition at auction, and the provisions of sections 7 and 8 of the Crown Lands Ordinance, 1903, shall apply: Provided, however, that the Governor in his discretion may in any case direct that the competition for the purchase of the preferent claim to obtain a grant, lease, licence or permission shall be confined to the applicants instead of being exposed to public auction.

(3) The Commissioner may, for sufficient cause, adjourn any such auction after it has been commenced to such other place and time as he may think fit, and shall openly declare such place and time when such adjournment is made.

23. (1) After the close of any such sale the Commissioner shall return to every unsuccessful applicant the sum deposited by him.

(2) (a) If the highest bidder was not an applicant he shall forthwith after the close of such sale pay to the Commissioner in the case of a grant, the prescribed proportion of the purchase money and the cost of survey payable by an applicant at the time of filing his application and in the case of a lease, licence, or permission, the deposit required under Regulation 2 (4) together with the first year's rent, and the sum bid for the preferent claim to obtain the grant, lease, licence or permission.

(b) If the highest bidder was an applicant, he shall forthwith after the close of such sale pay to the Commissioner the purchase money or balance of fees and the first year's rent as the case may be, and the sum bid for the preferent claim to obtain the grant, lease, licence, or permission.

If payment is not so made the next highest bidder shall be declared the purchaser or (of) the grant, lease, licence, or permission shall after notice in the Gazette be again set up for sale, as the Commissioner shall determine.

PART IV.

GRANTS TO SMALL CULTIVATORS.

CONDITIONAL PURCHASES.

24. Land having trees thereon suitable for wood-cutting purposes or for the collection of rubber or balata shall not ordinarily be sold, but shall be reserved for the purpose, of being dealt with under the provisions of Part VIII, and Part IX: Provided always that all timber on land granted, and all rubber, balata or other gums obtained from trees thereon, and every substance or thing (other than gold, silver, or other metals, minerals, ores including bauxite, gems or precious stones, rock, coal, or mineral oil), obtained therefrom shall be the property of the grantee of such land, and may be sold or otherwise disposed of by him without payment of royalty under these Regulations.

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PART V.

LEASES.

SECTION A. LEASES FOR AGRICULTURAL PURPOSES.

(1) SPECIAL LEASES.

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37. A lease shall ordinarily be subject to the following terms and conditions but the Governor may in any particular case in which he may deem it expedient vary these conditions to suit special circumstances or may in like manner annex such further conditions as he may think fit: * * *

(5) A lease shall not confer on the holder the right to any gold, silver, or other metals, minerals, ores, bauxite, rock, gems or precious stones, coal or mineral oil in or under the land leased which shall be saved and reserved to the lessor with the right to enter upon any part or parts of the land leased to

search and mine therefor subject, however, to the right of the lessee to receive compensation for any loss or damage to growing crops occasioned by such mining, the amount of any such compensation to be assessed by the Commissioner.

SECTION B. LEASES FOR GRAZING PURPOSES.

(1) LEASES FOR GRAZING AREAS ON THE COASTLANDS.

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39. Leases for grazing purposes for areas on the coastlands of the colony may ordinarily be granted subject to the following terms and conditions but the Governor may in any particular case in which he may deem it expedient vary these conditions to suit special circumstances or may in like manner annex such further conditions as he may think fit; * * *

(7) The Governor shall have full power and authority at all times during the term of the lease to resume and enter upon possession of any part or parts of the land leased which he may deem necessary to resume for any town site, village, railway, tramway, canals, telegraph line roads, wireless or radio stations, or power transmission and generally for any works or purposes of public use, utility or convenience; or to sell, lease, licence or otherwise dispose of to any person or persons with a right of immediate entry any part or parts of the said land for any purpose as aforesaid; also to resume possession of any part or parts of the land leased for the purpose of exercising the power to search and mine for and carry away any gold, silver or other metals, minerals, bauxite, ore, gems, precious stones, rock, coal and mineral oil without making to the lessee any compensation in respect of any land so resumed or sold, leased, licensed or otherwise disposed of as herein provided: Provided however, that the lands to be so resumed or disposed of under this Regulation shall not exceed one-twentieth part in the whole of the land leased and that no such resumption or disposition be made without compensation of any part of the said lands upon which any buildings have been erected or which may be enclosed and in use for the more convenient occupation of such buildings: Where, as herein provided, any part or parts of the lands comprised in a lease is or are resumed possession of or sold leased licensed or otherwise disposed of the lease shall immediately determine over such part or parts and the rental reserved by the lease shall be proportionately reduced.

(8) The Governor shall have full power and authority at all times during the term of the lease subject to any Ordinances or Regulations for the time being in force relating to the disposal of Crown lands, to sell, lease, licence or otherwise dispose of to any person or persons any part or parts of the land leased, for cultivation purposes or for the purpose of cutting timber or for the purpose of searching and mining for gold, silver or other metals, minerals, bauxite, ore, gems, precious stones, rock, coal and mineral oil, reserving to the lessee however the right to receive from such person or persons the fair value of any improvements then existing upon the land leased, the amount of compensation payable in respect of such improvements to be assessed in the manner hereinafter prescribed in Clause 43 of these Regulations. Provided that before any part of the land leased is disposed of for cultivation purposes as herein provided the grazing lessee shall have the option of taking out a lease for such purpose on the usual terms. * * *

(12) A lease shall not confer on the holder the right to the soil nor to the timber except to such timber as may be required for domestic purposes, for the construction of buildings, fences, stockyards, or other improvements on the land,

nor the right to any gold, silver or other metals or minerals, ores, bauxite, rock, gems or precious stones, coal or mineral oil in or under the land leased. * * *

(2) LEASES FOR GRAZING AREAS ON THE PASTURE LANDS OF THE INTERIOR.

40. Leases for grazing purposes for areas in the interior of the colony shall ordinarily be issued subject to the following terms and conditions but the Governor may in any particular case in which he may deem it expedient vary these conditions to suit any special circumstances or may in like manner annex such further conditions as he may think fit: * * *

(7) The Governor shall have full power and authority at all times during the term of the lease to resume possession of all or of such part or parts of the land leased as may be required for the purpose of any town site, village, railway, tramway, telegraph line, wireless or radio station, roads, canals, power transmission, or any other works or purposes of public use, utility and convenience whatsoever, or to sell, lease, licence or otherwise dispose of to any person or persons with a right of immediate entry any part or parts of the said land for any public purpose as aforesaid. Also full power to reserve or resume possession of any part or parts of the area leased for the purpose of exercising the right of searching or mining or quarrying for and carrying away any gold, silver or other metals, minerals, ores, bauxite, gems, precious stones, rock, coal or mineral oil, all without abatement of the rental and without paying to the lessee any compensation in respect of the part or parts of the land so taken, and the lease shall immediately determine over such part or parts of the land so reserved, resumed or otherwise disposed of as herein provided.

(8) The Governor shall have full power and authority at all times during the term of the lease to sell, lease, license or otherwise dispose of to any person or persons, subject to the provisions of any Ordinances or Regulations for the time being in force governing the disposal of Crown lands, any part or parts of the land leased for the purpose of cultivation or of cutting timber or of collecting balata or for the purpose of searching and mining or quarrying for and carrying away any gold, silver or other metals or minerals, or bauxite or gems or precious stones or coal or mineral oil: Provided however that before any part or parts of the land leased is disposed of for cultivation or mining purposes as aforesaid the grazing lessee shall be entitled to receive from the applicant therefor the fair value of any improvements then existing upon the land leased, the amount of compensation payable in respect of such improvements to be determined in the manner hereinafter prescribed in Clause 43 of these Regulations. Provided further that before any part of the land leased shall be disposed of for agricultural purposes as hereinbefore provided the grazing lessee shall have the option of taking out a lease for such purpose on the usual terms. * * *

(12) A lease shall not confer on the holder the right to the soil nor to the timber except to such timber as may be required for domestic purposes, for the construction of buildings, fences, stockyards or other improvements on the land, nor the right to any gold, silver, or other metal or minerals, ores, bauxite, rock, germs or precious stones, coal or mineral oil in or under the land leased.

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PART VIII.

LEASES AND LICENCES TO CUT WOOD.

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58. A lease or licence shall not confer on the holder any right to the land in respect of which the lease or licence is granted nor any right to any gold, silver

or other metals, minerals, ores, bauxite, gems or precious stones, rock, coal or mineral oil in or under the land comprised in such lease or licence and all agents, servants or workmen of the Government thereto specially authorized shall be entitled to enter upon the land granted and therein to search and mine for and carry away therefrom any metal or mineral or other substance or thing as aforesaid and also any stone, sand, clay or other materials which may be required for making or keeping in repair any roads, tramways, railways, drainage or irrigation works or for the construction of any works or purposes of public use.

* * * * *

PART X.

LICENCES FOR QUARRYING STONE, GRAVEL, KAOLIN AND OTHER CLAYS.

75. Licences for a term of years or during His Majesty's pleasure (as the case may be) for the purpose of quarrying stone, or gravel, or kaolin and other clays may be issued by the Commissioner subject to the following conditions: * * *

(7) The licence shall not confer on the holder any right to the land in respect of which the licence is granted nor the right to any gold, silver, or other metals, minerals, ores, bauxite, gems or precious stones, coal, or mineral oil in and under the said land and any agents, servants, or workmen of the Government thereto specially authorized shall be entitled to enter upon the land licensed and therein to search and mine for and to carry away therefrom any such metals or minerals or other substances or things as aforesaid.

PART XI.

MISCELLANEOUS PROVISIONS.

85. (1) The Governor may, provided he is satisfied that the cost of taking out a licence will be prohibitive to the industry which the applicant wishes to pursue, or that, owing to any special circumstances, the issue of a licence is impracticable, authorize the Commissioner on payment of such fees as may be deemed by the Governor to be reasonable, to issue, either by himself or any officer of the Department duly authorized by the Commissioner for that purpose, permission in writing to any person to occupy Crown land for any purpose, or cut, gather, take and remove any article whatever growing upon Crown land on condition that he pays the royalty payable thereon.

(2) The Governor may annex to the permission such other conditions as he may think fit.

(3) After the tract has been located by the applicant, the boundaries, if not creeks or other well defined boundaries, shall be marked off or defined in such manner as may be directed by the Commissioner.

86. (1) Leave may be granted by the Commissioner to the holder of any lease or licence to sub-let his tract or any part thereof on payment of the prescribed fee.

(2) No leave granted under this Regulation shall in any way relieve the original lessee or licensee from responsibility for nonfulfilment of any of the conditions under which the lease or licence was issued or prevent the forfeiture of such lease or licence for noncompliance therewith.

(3) Every such leave must apply to a specific sub-letting.

* * * * *

SUPPLEMENTAL PROVISIONS.

88. (1) The fees and royalties specified in the First Schedule to these Regulations shall be payable in respect of the several matters therein mentioned. Provided that the Governor may at any time by notice in the Gazette fix a royalty on any substance or thing not mentioned in the said Schedule, collected or removed from the Crown forests.

(2) Any application made under the Regulations in force before the commencement of these Regulations and not completed before the commencement of these Regulations shall be proceeded with under these Regulations.

* * * * *

92. Every person who fails to comply with any condition attached to any grant, lease, licence or permission, shall, on conviction, be liable to a penalty not exceeding twenty-four dollars.

93. The Crown Lands Regulations, 1915, and the Crown Lands Regulations, 1915, Amendment Regulations, 1918, are hereby repealed, but such repeal shall not:—

Affect any right, interest, or liability already created, existing, or incurred, nor anything lawfully done or suffered under any regulation hereby repealed or,

Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any regulation hereby repealed; or

Affect any investigation, legal proceeding, or remedy in respect of any such right, interest, liability, penalty, forfeiture, or punishment as aforesaid.

94. These Regulations shall come into force on the first day of July, 1919.

CHILE.

CONTENTS.

	Page.
Mining code -----	545
Mines and mining property -----	545
Investigating or prospecting -----	546
Persons who may locate mines -----	547
Discovery of mines—Method of acquiring title -----	548
Claims for prospecting on known lands -----	550
Surveying or measuring claims—Creating definite title—Deeds of ownership -----	550
Miner's rights to claims—Acts of trespass -----	552
Development of mines and easements -----	552
Transfer of mines—Title acquired by lapse of time—Sale of ores -----	552
Employment of workmen -----	553
Mining companies -----	554
Taxes and forfeiture of mines -----	557
Avios -----	557
Court proceedings -----	559
Executions against mines -----	560
Transitory articles -----	560
Code of civil procedure -----	561
Suits at law in mining matters -----	561

MINING CODE.

CHAPTER I.

MINES AND MINING PROPERTY.

Art. 1. The State owns all gold, silver, copper, quicksilver, and tin mines, and mines of precious stones, and of other fossil substances, notwithstanding that the surface beneath which they are located is owned by persons or corporations.

But all persons have the right to prospect and open lands by whoever owned, for the purpose of discovering the mines referred to in the preceding paragraph, of working and operating said mines, and of disposing of them as owners, in conformity with the conditions and subject to the rules contained in the present Code.

Art. 2. Gold, silver, copper * * *.

The owner of the land is entitled to the right of working coal or other fossils not mentioned in the foregoing paragraph, but should he commence work he is obliged to conform with the proceedings established by the present law.

All minerals substances lying in uncultivated State or Municipal lands, are also free for acquisition by any person.

* * * * *

Art. 6. The existence of a mine having been ascertained, the surface is subject to occupation to the full extent necessary for the convenient working of the mine according to its successive requirements; for establishing ore floors,

furnaces and machinery for the extraction or working of ores, either alone or mixed with others; for workmen's houses and for roads to join the common highways, not only for the conveyance of products, but of all materials required for operating and developing. Concessions of non-metaliferous mines are favoured by the same easements.

Surface lands not cultivated or enclosed are also subject to furnish wood for the use of the workmen of the mine, but the right of cutting it shall cease, should the owner of the land deliver it cut.

This right shall be acquired after payment of an indemnity that shall not only satisfy the value of the land occupied, but all damages, whether inflicted on the owners of the surface or on other persons.

Art. 7. The roads opened up for the service of a mine shall benefit any other mines in the same locality; and in which case, the expense of upkeep shall be divided among the mines in proportion to their use of same.

Art. 8. Not only the surface but the lands adjoining shall be subject to the right of pasturing the animals necessary for operating the mine, while said lands are not under cultivation or enclosed, and also to the right of using natural waters for workmen and animals to drink. Works for the purpose of providing the necessary water for said object may also be built on the lands, as well as for furnishing power for operating and developing machinery, provided that the lands are not thereby rendered unserviceable for their appointed object.

It is always understood that a suitable indemnity is to be paid first.

Art. 9. Waters proceeding from subterranean works in the mines, belong to the mines.

Art. 10. Mines constitute landed property distinct and separate from the surface, even though both belong to the same owner; and the property, possession, use and enjoyment of them is transferable, the same as other landed property, subject to the special provisions of this Code.

Art. 11. Things or objects permanently intended for the operation of a mine by the owner of the same, such as buildings, machinery, pumps, instruments, utensils and animals, are to be considered as landed property accessory to the mine, but animals and objects employed in personal service or in the transport or commerce of minerals, products or implements, provisions for operating, and other personal belongings of the owners or operators are not to be considered real property.

Art. 12. Mines are not susceptible of material division, nor are the partners in a mine allowed to appropriate to their exclusive use one or more specified workings. However, the interest held by one or more partners may be divided into quotas or shares.

Art. 13. The law concedes perpetual ownership of mines subject to the payment of an annual tax (patente) on each hectare of the surface, and this right of ownership shall be forfeited and turned back to the State only because of non-fulfilment of said condition, and after the procedure expressly provided in this Code.

CHAPTER II.

INVESTIGATING OR PROSPECTING.

Art. 14. The right to prospect and open any person's land for the purpose of discovering mines may be freely exercised on lands that are not enclosed or not used for cultivation.

Art. 15. Before entering upon the work of investigation on cultivated unirrigated lands, a license is required from the owner or manager of the estate.

Should the owner or manager refuse the license, the judge of the locality may grant it or not, without appeal, after a verbal hearing of the interested parties, and, should he deem it advisable, or should either of the parties ask for it, the opinion of a mining engineer may be taken.

Art. 16. The license granted by the judge in accordance with the disposition of the preceding article, shall specify the number of persons that may be engaged in the investigation, and shall always be subject to the following conditions:

1st. That the investigation must be made when crops are not growing or being harvested on the land;

2nd. That the investigation does not exceed one month from the date of the license;

3rd. That the applicant present sureties on demand of the owner of the land to insure indemnity for all damages which may be caused to the owner by the investigation or by reason of it.

Art. 17. No person who has once obtained a license from the judge to prospect shall on any pretext whatever apply for a fresh license in regard to the same property.

Art. 18. Should it not be possible to make the investigation within the term fixed because of sufficient reasons, the permit may be transferred to another period by virtue of a further decree from the competent authority.

Art. 19. The judge cannot grant a license to prospect in houses, gardens, orchards, or in any other kind of irrigated land, (sic) nor in dry lands planted with trees or vineyards.

Art. 20. Prospecting shafts or other mining works cannot be opened at less than forty metres from buildings or railways, nor on lands which form a bank either above or below a road or canal, without a special permit from the government authority, who shall grant it, should there be no reason against doing so according to an engineer's opinion, and the government authority shall dictate the proper measures to ensure safety.

The same shall be done when works are to be started at a less distance than one hundred metres from canals, aqueducts, watering places or any kind of springs.

In ports of entry submarine works cannot be commenced without a permit from the government authority, after hearing expert opinion.

Likewise, and without prejudice to the disposition contained in the preceding paragraph, as the case may be, a permit from the proper military authority is necessary in order to execute said works at a distance less than one thousand four hundred metres from fortified points.

The violation of this article is punishable by a fine of from one hundred to one thousand dollars, besides the indemnities covering the damages caused.

CHAPTER III.

PERSONS WHO MAY LOCATE MINES.

Art. 21. Any person that can possess landed property in Chile may acquire mines by any legal process, with the exceptions contained in the following article.

Art. 22. The following persons are forbidden to acquire mines or any quota or interest in mines:

1st. Governors of Provinces (Intendentes) within the province subject to them, and Governors of Departments within their departments;

2nd. Magistrates of the Superior Courts and department judges (*jueces letrados*) who have under their charge the administration of justice in mining matters, within their respective jurisdiction;

3rd. Notaries in mining matters and their clerks, secretaries of courts that try mining cases and their clerks, also within the jurisdiction of their offices;

4th. Undivorced wives, and children under paternal control (*patria potestad*) of the aforesaid officials;

This prohibition does not extend to mines acquired by married women before their marriage.

Art. 23. Mines or parts of mines acquired in violation of the dispositions of the foregoing article shall be forfeited to the Municipality of the department within which the mine is situated.

Art. 24. No person is entitled to acquire as discoverer, recorder, or grantee, more than three mining claims in one mineral district; but any suitable person may acquire, by any other title, as many mines as he may wish without limitation.

Art. 25. Adult minors and children subject to paternal control may, without the consent or authority of their parents or guardians, acquire whatever mines they may discover or record, which will inure to their benefit and be subject to their control.

CHAPTER IV.

DISCOVERY OF MINES—METHOD OF ACQUIRING TITLE.

Art. 26. A discoverer on virgin land is one who discovers mineral deposit at a greater distance than five kilometres from a recorded mine.

A discoverer on known land is one who discovers a mine within a radius of five kilometres of a recorded mine.

Art. 27. The first person applying to have a mine recorded shall be considered the discoverer of it; unless it is proved that there has been fraud in forestalling the manifestacion (notice) or in retarding that of the person who actually discovered first.

Art. 28. A person discovering a mineral deposit while engaged in mining operations under the orders of, or commissioned by, another shall not be considered as the discoverer, said discovery being for account of the party for whom the work is being carried out.

Art. 29. The discoverer of a mine shall give written notice (*manifestacion*) of his having located it to the judge of the department, or to the Mayor (*alcalde*) discharging the duties of the same.

On giving the notice he shall express his name and that of his associates, should he have any; the most characteristic marks of the locality wherein the prospect, shaft or drift in which he found the mineral is situated; the indication of its nature; the name which he wishes to give to each claim of the three to which he is entitled, and the size of each claim expressed in hectares. He should also state whether his discovery is on virgin land or on known land.

These claims are to be recorded and marked out separately.

Art. 30. A discoverer on virgin land is the only person entitled to apply for claims within the radius of five kilometres from the shaft of the discovered claim for a term of fifty days from the date of recording.

Art. 31. The secretary of the court in which the notice has been filed shall certify on the notice as to the hour and date of its presentation, shall take note in a record book with numbered pages which he shall keep, and shall give a receipt to the interested party should he be asked for one.

Art. 32. The respective judge shall order the manifestacion to be recorded, and the record published in conformity with Articles 29 and 30.

Art. 33. The record must be a full copy of the notice or application and the decree of the judge, with the certificate of the day and hour of presentation, entered in the register of discoveries which shall be kept by all notaries that act in mining affairs.

A copy of these proceedings shall be given to the interested party, should he ask for it, and the original shall be deposited in the archives.

Art. 34. The publication of the record shall be made by inserting it three times in a newspaper published in the department, should there be one, once every ten days.

Should no newspaper be published in the department, the publication of the record shall be made by means of placards which shall be posted for the term of thirty days on the door of the Notary's office, and at two of the most frequented spots.

Art. 35. The person recording is obliged to sink within ninety days a shaft or mine entrance at least five metres in vertical depth, which shall be the point of departure for determining the locations of the claim and also prove the existence of the mineral to be worked.

Art. 36. The area granted to the miner for working the mine is called a claim.

Art. 37. The mining claim referred to in Paragraph 1 of Article 2 is a solid with a rectangular base, and of an indefinite depth within the vertical lines which limit it, and shall comprise the space of five surface hectares¹ as a maximum, and of one hectare as a minimum, at the will of the person who has it recorded.²

The claim may comprise as much as fifty hectares for mineral substances referred to in Paragraph 2, and those that follow of article 2.

Art. 38. After the shaft or mine entrance referred to in Article 35 has been sunk, the person recording the claim shall provisionally stake its boundaries with visible monuments placed at each of its extreme points. Then he shall ratify the record by means of an application to the judge, or Mayor discharging the duties of the same, wherein he shall declare the circumstances which characterize the mine, and the points of the compass towards which he has measured and provisionally staked his claim, and its extent in hectares.

This application shall also be recorded in the same manner as the notice.

The person recording shall fulfil these obligations within the term granted for sinking the shaft.

Art. 39. These formalities shall answer the purpose of a provisional title to ownership of the mine until the definite title shall have been constituted by the measurement of the claim made by orders of the court, on the application of the person recording or by any other interested party.

But the context of the provisional title shall in no wise answer the purpose of a legal proof.

Art. 40. Should the person recording not wish to obtain a provisional title but prefer to immediately constitute a definite title, he shall make a statement to this effect in his application for the ratification of the record.

Art. 41. Should the person recording not sink the shaft or ratify the record, he shall be considered to have surrendered his rights.

Art. 42. Any error in the ratification of the record is subject to correction at any time, and the correction shall be recorded in the register by orders of the court.

¹ 100 metres square, or about 2½ acres.

² Mining claims (referring to metal mining) must be rectangles; but the length and breadth are left to the discretion of the claimant, providing the area does not exceed the limits imposed by law.

It is understood that all this shall be subject to being done without prejudice to third parties.

Art. 43. Adverse claimants to a discovery shall commence suit within the term granted for the ratification of the record, and they shall be refused a hearing should they lodge their claim afterwards.

CHAPTER V.

CLAIMS FOR PROSPECTING ON KNOWN LANDS.

Art. 44. One hundred and eighty days after the ratification of the record or the staking of a discovery claim any suitable person may apply for a claim for the purpose of exploring the ground toward the point of the compass which he may indicate, adjoining that located by the discoverer.

These applications shall be recorded in the register in the same manner as the notice of discovery.

Art. 45. Should two or more persons apply for such claims towards the same point of the compass, preference shall be given to applications by order of priority.

Art. 46. The grantee of such claims is obliged to sink the shaft and ratify the record, even though he may not have found mineral deposit, and shall be subject to all the obligations imposed upon discoverers.

CHAPTER VI.

SURVEYING OR MEASURING CLAIMS—CREATING DEFINITE TITLE—DEEDS OF OWNERSHIP.

Art 47. To survey and measure a claim, it is first necessary to summons the owners of adjacent claims, either personally, if they are known or live in the mining district or department, or through the manager of the mines, the owners of which live elsewhere, and neither the owner nor the manager being in the locality, the former shall be summonsed by means of an edict posted during fifteen days on the door of the court house, and inserted three times in a newspaper, should there be one published in the department.

The persons summoned shall have ten days within which to claim that their mine or mines are entitled to preference in the order of measurement.

Art. 48. The priority of the recorded notice of a mine shall entitle the person making the same to a preference in the survey and measurement, over those made at a later date.

Art 49. There being no opposition to the application for measurement, or any litigation occasioned by it having been settled by a final judgment, the judge shall order the measurement, first fixing a date for it.

Art. 50. The interested party shall have the measurement of his claim made by any titled mining engineer in the presence of two witnesses, or if there is no engineer, by an expert named by the judge.

Art. 51. Each of the other interested parties shall also be entitled to name before the judge an expert to be present at the survey and demarcation, who may exercise vigilance over the work of the person performing it, and during the progress of the work make remarks and lodge objections as to the proceedings, data, and technical opinions.

Art 52. The engineer or expert shall first examine the mine, and if the deposit exist, and the works have been made in accordance with the law, he shall proceed to survey the claim according to the forms indicated or applied for by the claimant in the ratification of the record, or according to the petitions he may make during the survey, should there not be present any owners of adjacent

claims, or should the same make no objection; but the shaft shall always remain within the boundaries of the claim.

He shall also gather samples of the mineral and mark the points where the monuments are to be placed, which shall be strong, durable and clearly visible.

Art. 53. Any claims applied for, for the purpose of prospecting the lands adjoining an explored mine, shall be surveyed in such manner that no open space remains between them.

Art. 54. The claim shall always be continuous. Should there not be sufficient room for the proper measurements on account of the interposition of another claim, the former shall be restricted to the space remaining open up to the interference, and can not be completed by jumping across the interposing mine.

Land less than an hectare in extent resulting from the survey between various claims, shall become an accessory to the oldest claim.

Art. 55. The engineers or experts shall be guided by the magnetic north in making the reckoning, and whenever possible they shall fix the position of the ordinance shaft which was the starting point for the mensuration with respect to permanent and perceptible objects on the land, taking note of their distance. In places where the astronomical meridian has been determined, the engineer shall take care to state the angle of magnetic declination.

Art. 56. The survey being finished, the engineer or expert shall write out a record of the proceedings containing a precise, clear and circumstantial record of the survey and its results, and also the remarks made and objections lodged by the experts named by the parties.

This record, signed by the engineer, the experts present, the interested parties and two witnesses shall be handed over to the judge, who, finding it complete and in accordance with the law, shall order it to be recorded in the register, the original deposited in the archives, and a copy given to the interested party, or otherwise that the defects or irregularities which he may notice be corrected.

Art. 57. Should there arise a difference of opinion between the engineer and the experts as to technical points, the judge shall name another engineer or expert for the latter to act in conjunction with the persons that disagree; and should there result from the fresh survey a majority of opinions that agree, he shall order the record to be made in accordance with the opinions of the majority and as expressed in the preceding article.

Art. 58. The survey made in conformity with the provisions of the foregoing articles shall be unchangeable, and shall constitute definitely the title to the ownership of the mine, and can only be attached on the grounds of technical error appearing in the record of the proceedings or of fraud or deceit.

Art. 59. The mensuration may also be rectified on the application and at the expense of a miner located on the boundaries or in the vicinity of the surveyed claim, who claims that it is larger than the extent assigned by its title-deed.

Art. 60. The proceedings for the rectification shall be the same as those established for the original survey and measurement.

Art. 61. The miner is obliged to maintain and keep up the monuments of his claim, and he may not alter them or change them under penalty of paying a fine that shall not amount to less than fifty dollars nor exceed five hundred, besides the criminal liability should he have acted *mala fide*.

Art. 62. When through an accident or fortuitous circumstances a monument is overturned or destroyed, the miner shall call the judge's attention to it, that he may order it replaced on the proper spot, with due notice given to the owners of adjoining claims.

CHAPTER VII.

MINER'S RIGHTS TO CLAIMS—ACTS OF TRESPASS.

Art. 63. The grantee of a metalliferous mine shall have the exclusive right of ownership to all mineral substances existing or located within the lines of his claim and throughout its entire depth.

The grantee of mineral substances referred to in Paragraph 2 and the following paragraphs of Article 2, shall own only those substances which he gave notice of and recorded.

* * * * *

CHAPTER VIII.

DEVELOPMENT OF MINES AND EASEMENTS.

Art. 68. Miners shall develop their mines freely, not subject to any technical rules whatever, except inasmuch as they must conform to the police and safety regulations.

Art. 69. Mines are subject to the vigilance of the government authorities, who for the effects of the preceding article, shall order their inspection in the form and at the periods they may deem proper.

* * * * *

Art. 79. Mines are subject to use for the purpose of facilitating ventilation to other mines that need it, and also must allow the subterraneous passage of the others in the direction of the common drain. On the superficies they shall also allow the right of way for working purposes. Both on the surface and beneath it they shall be subject to all those servitudes and uses that accrue to the advantages of others but neither assist nor hinder development.

It is to be understood in every case that damages are to be paid first, on the appraisement of experts.

CHAPTER IX.

TRANSFER OF MINES—TITLE ACQUIRED BY LAPSE OF TIME—SALE OF ORES.

Art 80. Mines may be transferred *inter vivos*, and transmitted *mortis causa*, as other real property.

Art. 81. Mines are originally acquired by their registration in legal form, and from that time the recorded mine is subject to the provisions ruling recorded property.

Art. 82. For the conveyance of surveyed mines and placing encumbrances on them, there shall be in each department a special register under the charge of a Notary Public, who is also in charge of other mining registers, wherever possible. This register shall be ruled by the same provisions that regulate the register of landed property.

Art. 83. The conveyance of mines of which the record has not been ratified, or in regard to which the definite ownership title deed has not been created, shall be made by recording it in the register of discoveries.

Art. 84. Contracts whereby the ownership of mines is transferred, cannot be rescinded because of *lesion enorme* (Unreasonable price).

Art. 85. The sale of mines is not complete until drawn up as a public deed. Notwithstanding, private deeds shall be valid as signifying a promise to sell.

Art. 86. The lapse of time necessary to acquire the ownership of mines by possession shall be only two years in regard to ordinary periods established by the Statute of limitations and ten years in regard to extraordinary ones, without in either case entering into distinctions between present and absent persons.

* * * * *

CHAPTER X.

EMPLOYMENT OF WORKMEN.

Art. 90. Contracts employing workmen for a definite period exceeding one year shall be in writing; but the workman shall not be bound by the contract for a greater period than five years from the date of same.

Art. 91. In case a definite period has not been agreed upon the services may cease at the will of either party.

In reference to superintendents, artisans, and other such workmen, either of the parties must give at least fifteen days notice to the other party of his intention to cancel the contract, even though it has not been so stipulated.

Art. 92. If a workman under contract for a definite period with a stipulation as to notice to cancel the contract should withdraw unreasonably, without good and sufficient reason, he shall pay the master a sum equivalent to one month's salary, or to the term of the notice, or to the number of days necessary to complete the term of notice, as the case may be.

Art. 93. The master, who in a similar case, dismisses a workman, shall be obliged to pay him an equal sum, and to pay in addition to this, the expenses of the trip and the return trip, if it became necessary for him to change his residence in order to render the services.

Art. 94. Unfitness, bad conduct, or insubordination of the workman, or if the latter from any cause, becomes unfit for service for more than one month, shall be a sufficient motive for the master to dismiss the workman.

The master, notwithstanding, shall attend to the cure of workmen injured or incapacitated by sickness in the service of the mine or by reason of an accident occurring therein.

Art. 95. Ill-treatment on the part of the manager or non-payment of salary at the stipulated or usual periods, shall be considered a good and sufficient reason for the workman to consider his obligations ended.

Art. 96. Workmen who leave after receiving advances on their unearned salary shall be liable to prosecution for fraud.

Art. 97. The book regularly kept at the mine by an employee of the same, but not by the manager himself, shall be regarded as proof:—

1st. As to the amount of the salary;

2nd. As to the payment of the salary due for any specified period;

3rd. As to amounts advanced to workmen on account of the current month.

Art. 98. Contracts for executing specified work, or referring to the services of managers, book-keepers and other such employees, are not subject to the foregoing provisions, even should the work have been agreed upon for a specified time.

Art. 99. Salaries and wages of workmen and of other employees, including trustees, for the current month, shall be paid out of the proceeds of the mine in preference to all other claims. Even the tools may be sold for this purpose.

As to the remaining property of the insolvent mine owner, salaries and wages of workmen and employees shall be entitled to the same privileges as are granted by the common law to the salaries and wages of clerks and servants.

CHAPTER XI.

MINING COMPANIES.

Art. 100. A company or partnership exists when two or more persons work one or more mines in common, in accordance with the provisions of this Code. Companies are created:

- 1st. By the fact of recording a mine in partnership;
- 2nd. By the fact of acquiring a share in a recorded mine;
- 3rd. By a special partnership contract.

This contract shall be in writing, by private or public deed.

Art. 101. All business concerning the company shall be discussed and decided upon in meetings by a majority of votes.

In order to form a meeting, the attendance of one half of the members present entitled to vote shall suffice after all of them have been notified, even those not entitled to vote.

The notices shall designate the object of the meeting, and the day and the hour on which it is to be held.

Art. 102. The notices calling the meeting shall be served by means of publication and edicts. They shall be published three times within fifteen days in a newspaper of the department.

The edicts shall be posted for the fifteen days on the doors of the mining notary's office.

Should there be no newspapers the edicts shall suffice.

Art. 103. Notices shall be delivered personally to members entitled to vote, or to their representatives, if known and if residing in the department where the mine is located. Otherwise the publications or edicts shall be sufficient.

Art. 104. When in the records of the meetings that have taken place, the object and the day and the hour of future meetings have been designated, the members present shall be considered to have been personally notified.

Art. 105. The president of the company when he shall deem it advisable, or on application of one of the members, shall issue notices to convene or nominal summonses.

In default of the president, two or more members, or the administrator, if he shall have been vested with this power, shall do so.

Partners can make these citations only in case the president refuses to do so.

Art. 106. The company or its directors shall appoint an attorney with powers sufficient for everything in any way relating to the authorities.

Art. 107. In the deliberations of the partners, unless there is an agreement to the contrary, those that possess a quota or share representing at least four per cent of interest or property in the mine shall be entitled to vote. Those possessing fractional parts of a quota, being of the same opinion, can unite their fractions so as to constitute as many votes as said fractional parts may form into quotas.

Art. 108. In order to constitute a majority it is unnecessary to take into account the number of voters; only the numbers of votes.

Votes belonging to one single owner shall not of themselves constitute a majority.

When votes belonging to one owner constitute one half or more of the shares, the voting shall be considered tied.

Art. 109. In the case of a tie, whatever the reason, the judge shall decide the question at issue, taking into consideration that which conforms best to the law and to the interest to the company.

Art. 110. The partners may dispose freely and effectively of their rights in the company, but subject to the encumbrances and obligations thereon.

Art 111. All the partners are entitled to take part in the administration of the company; but they may name one or more persons to act for them, who shall be elected by a two-thirds vote of those present.

The duration, attributes, duties and remuneration of the administrators shall be determined in meeting, should they have not been settled in the deed of partnership.

The administrators shall not incur liabilities, place encumbrances on the whole or a part of the mines, sell the ore or concentrates, or name or discharge the administrators of the works without special authorization.

In any case the partners may prevent the sale of the ore or concentrates by paying the expenses and discharging the assessments.

Art. 112. The expenses and output shall be distributed in proportion to the parts or shares held by each partner in the mine, should it not have been agreed upon to do otherwise.

Any stipulation depriving a partner of all participation in the profits or output shall be null and void.

Art. 113. The distribution of the profits or of the output shall be made when the majority of the partners vote to do so, but should they not come to an agreement, then when the administrator of the company and of the mine should deem it advisable.

Art. 114. The distribution shall be made in ores, in concentrates, or in money, as the partners shall decide.

If they can not come to an agreement, the distribution shall be made in money.

The distribution shall be made in ores or in concentrates, on application of one or more partners representing one-fourth of the shares.

Art. 115. The amount and extent of the works to be done in the mine, with the output of the same, shall be determined by a majority of votes provided the cost does not exceed half the value of the output.

Art. 116. Should the mine not yield sufficient output, the partners shall levy an assessment wherewith to meet expenses. In this case for the agreement to be binding, it must be carried by the votes of those representing two-thirds of the total rights or shares in the mine.

Art. 117. There shall be delinquency:

1st. If the member delinquent fails to pay the assessment within the time specified;

2nd. When the assessment has not been paid within thirty days after the service of notice, should there have been no stipulation or agreement as to time;

3rd. If the expenses having been incurred without an assessment being levied, or said expenses having exceeded the amount of the assessments, the proportional part is not discharged within fifteen days;

4th. When the necessary expenses for the safety and upkeep of the mine have not been contributed.

Art. 118. In any of the cases contemplated in the preceding article, the administrator of the company may dispose of such part of the ores, concentrates or money belonging to the delinquent as shall suffice to cover the expenses and assessments which should have been discharged.

Art. 119. If the mine does not yield an output, or if it should be insufficient to cover expenses or liabilities in part or in toto, any of the partners who are not delinquent may apply to the judge for the delinquent member to be required to pay, under penalty of forfeiting his rights should he fail to do so.

Should payment not be forthcoming within thirty days after service of notice, that part of the mine shall be vacant, and shall be sold at public auction at a minimum equivalent to the delinquent assessment. The residue, should

there be any, shall be returned to the delinquent member, deducting the costs of the sale.

Art. 120. Should the delinquent member be out of the territory of the Republic, the notice shall be served by publication and edicts, as provided in Article 102.

But in the present instance the publications shall be made five times within thirty days, and the placards shall be posted for an equal number of days.

Art. 121. The partner who has been required to pay may object to the application made to the judge by members who are not delinquent, within the term of thirty days.

His objection shall contain a clear and detailed statement of the facts that justify his opposition, and shall be accompanied by the documentary evidence of same.

If the objection is not presented in due time the judge shall order the sale at public auction of the part of the mine belonging to the delinquent partner.

Art. 122. Grounds for objection are the following:

1st. Payment of the sums required to be paid;

2nd. That said sums proceed from works executed without the consent of the objector, his consent being necessary.

3rd. That the assessment or sum applied for is to be employed in such work;

4th. The existence of sufficient ore to discharge the debt.

Art. 123. The partner making the claim shall present sureties, together with the objection, to be responsible for expenses or assessments that may be levied after the notice has been served and till a definite result is arrived at.

Payment shall be compelled should the sale at auction be denied by the judge, or should the applicants desist from their action.

Art. 124. Mining companies are dissolved:

1st. By the fact that all the parts of the mine have become united in one person;

2nd. By the mine being declared abandoned;

3rd. When, the company having been formed, under special stipulations, any of the circumstances occur which, according to said stipulations, shall cause its dissolution.

Art. 125. A company dissolved in accordance to the last one of the causes mentioned in the preceding article, shall continue to exist legally between the persons who have preserved a part of the mine.

Art. 126. A company is not dissolved by the death of one of the partners. His heirs take his place, each one in the part to which they may have become an heir.

Art. 127. Prospecting companies are formed by the fact of two or more persons agreeing to organize an expedition for the purpose of discovering mineral fields.

The agreement may be verbal, or made by public or private deed.

Art. 128. When the explorers or persons commissioned to explore do not receive a salary or other remuneration, they are supposed to be partners in whatever discovery they make.

Art. 129. All persons earning a salary, and that belong to the party, whatever their occupation, prospect on account of the person who has undertaken the expedition and who pays their salary.

Should a promise or agreement have been entered into, it must be made in writing.

CHAPTER XII.

TAXES AND FORFEITURE OF MINES.

Art. 130. Mines comprised in paragraph 1 of Article 2 of the present Code, shall pay a tax (*patente*) of ten dollars (*pesos*) a year for each hectare. Claims located on deposits of the mineral substances comprised in paragraph 3 of the same article shall pay five dollars a year on each hectare.

Art. 131. Mines, the operating of which belongs to the owner of the land, shall not pay a tax while not transferred to another person as property separate from the land. In the latter case they shall pay a tax of five dollars a year on each hectare.

Art. 132. The present owners of mines shall pay the tax without taking into account the fractions of an hectare, but those having less than one hectare shall pay as if they had an entire one.

Art. 133. The yearly tax shall be paid in advance in the National Treasuries, from the 1st up to 31st of March inclusive of each year.

The amount of the tax to be paid in advance by grantees on ratifying the record or making the survey, shall be proportionate to the unexpired time necessary to complete the yearly period which ends on the 1st of March inclusive of each year.

The tax may be paid at any department treasury. Should the payment be made in a department other than the one in which the mine is situated, the head of the receiving office shall send the treasurer of the latter department an authorized copy of the entry within the term of three days.

Art. 134. The mining concession shall only lapse by nonpayment of the tax within the time limit fixed by this law, in which case the mine shall be put up at public auction for the purpose of selling it to the highest bidder, subject to the condition of continuing payment of the respective tax. The sum owing to the government shall be deducted from the proceeds of the sale, and the rest, except the costs, shall be returned to the former grantee. The latter may stop the sale of the property by paying a sum double the amount of the tax that he owes, but he shall not be allowed to bid on the day of the sale unless he pays a fine equal to the sum that is owing, besides the cost of the auction.

Should there be no bidders, the judge shall declare the land vacant.

Art. 135. Within the first fifteen days of the month of April the office commissioned to collect the taxes shall send to the judge of the respective department a list of the mining properties which have not paid their taxes.

The judge shall order notices to be published five times in a newspaper of the department, should there be one, or placards to be posted in case there should be none, fixing a date for the sale at auction, which shall take place between forty-five and fifty days from the date of the first publication of the notice.

The omissions of the persons commissioned to send the list referred to in Paragraph 1 of this Article, may be corrected on the application of any person.

Art. 136. Those who keep the mining registers under their charge shall send every three months to the Chief Auditor's office (*Contaduria Mayor*) a list of the surveyed concessions and of those which have ratified their record, registered within said period.

CHAPTER XIII.

AVIOS.

Art. 137. By the *pacto de avios* (agreement to supply funds for working a mine), a person binds himself to satisfy the expenses required for working a mine, to be paid back only with the output of the same.

Art. 138. The *contratos de avios* (contracts to supply the necessary funds for working a mine) must be in writing, and shall have no effect as to third parties or other creditors, if not drawn up as a public deed and recorded in the register for the creation of real estate encumbrances on mines.

Art. 139. *Avios* (advances) may be agreed to for a definite amount or period, or for the execution of one or more works in the mine.

Art. 140. Should the period or amount of the *avios* not be stated in the contract, either of the parties to the contract may put an end to it whenever he may wish to do so, after paying whatever is owing.

Art. 141. The miner may cancel the *avios* whenever he wishes to do so, by transferring over the ownership of the mine to the *aviador* (person who undertakes the *avio*), the latter abandoning his right to be reimbursed for the sums supplied.

Art. 142. It may be stipulated that the payment of the sums owed to the *aviador* be made in metals, at the price agreed upon by the interested parties, or determined by a third party, as in a sale, or in money at stipulated premiums not subject to limitation.

Art. 143. It may also be stipulated that the *aviador* is to become the owner of a quota of the mine in compensation or payment of *avios*, and in this case the contract shall be subject to the provisions ruling partnerships in mines.

But should the *aviador* cancel the contract, availing himself of the right granted by article 141, the quota of the mine of which he had become the owner by virtue of the contract, shall return to the ownership of the miner, unencumbered and not subject to any obligations on his part.

Art. 144. The *aviador* shall supply the funds in accordance with the terms stipulated, or according to the requirements of the work, and if, being required to do so, he should refuse to comply, or should delay payment in the ordinary of the work, the miner may choose between exacting payment in the ordinary way, obtaining a loan upon the responsibility of the *aviador*, or entering into a contract with another *aviador*, whose right to reimbursement shall be preferred.

Art. 145. Should the miner employ the money or assets of the *avios* for other purposes without the consent of the *aviador*, he shall be held responsible for breach of confidence, and the *aviador* shall be entitled to take the mine under his management.

The *aviador* shall be entitled to do the same, if, the mine being in debt, the management of the mine is proven to be careless and extravagant, notwithstanding that this abuse has been pointed out to him and claimed against.

Art. 146. If, the contract having come to an end, the mine is in debt, the *aviador* is entitled to hold it in restraint and continue to advance money on it under his own management, until he has reimbursed himself in preference to all other creditors, excepting previous mortgagees, not only of what is owing to him, but of later advances, with the premiums and according to the terms stipulated in the contract.

Art. 147. If in the case of the preceding article the *aviador* should not wish to continue advancing money, the miner may secure further *avios* with other persons who shall enjoy a preference over the former *aviador*.

Art. 148. The rights granted to the *aviador* in the preceding articles shall not prevent the owner of the mine from examining and supervising it; and the *aviador* shall be deprived of the administration should he oppose this right in any act relating to the administration.

He shall also cease in the administration in case of breach of confidence, besides being criminally responsible.

CHAPTER XIV.

COURT PROCEEDINGS.

Art. 149. No persons are entitled to privilege as to being judged only by special courts, in suits referring to discoveries, notices, claims, surveys, or in general, whereby a right granted by the present Code is claimed.

Art. 150. In the suits referred to in the preceding article, the only written statement admitted shall be the complaint and the answer, and once these are presented, the litigants shall be called to a verbal hearing.

At the same hearing the judge shall summons them to receive judgment;

1st. If the question or questions to be decided are purely legal;

2nd. If the parties agree as to the facts, or their conformity appears from their answers to the questions put to them by the judge in the course of the hearing;

3rd. If the facts are proven by the documents presented, acknowledged or accepted as valid by the party against whom they are presented;

4th. If the parties agree that the judge is to pronounce judgment in accordance with the actual condition of the proceedings.

The testimony of witnesses shall be taken before the judge in open court; and the party against whom the witness is presented shall be entitled to cross-examine him, even at the same sitting.

The parties, however, may agree to the testimony being taken according to the common law.

In case the court is too busy, the reception of the testimony may be delegated to the special superior judge referred to in Article 38 of the Law of Organization and Attributions of the Courts.

Each party shall not present more than ten witnesses.

Once the time designated for presenting proofs has expired and these have been made public, the judge shall order the parties to appear at a hearing, and in view of the statements made by them, verbally or in writing, they shall be summoned to hear judgment.

The hearing shall take place if either party is present.

Art. 151. Indemnities for damages, should the interested parties not come to an agreement, shall be fixed by arbitration of two experts, one named by each party, or of a third one who shall be named by the judge, in case they should not agree.

The report of the experts having been presented, the judge shall pronounce judgment without further proceedings.

Art. 152. Should a mine or its output be attached by orders of the Court, a sufficiency shall be exempted to meet working expenses.

The possessor or holder may obtain a release by offering sureties or a mortgage to secure the restitution of the mine or of the proceeds; but in this case the person applying for the writ of attachment may demand the appointment of a trustee to watch the work, and to keep an account of the expenses and output of the mine.

Art. 153. If the attached mine does not yield sufficient output to attend to its working, nor does the person applying for the writ of attachment furnish the necessary funds, the mine shall be restored to the possessor until definite judgment has been pronounced in the action which has occasioned the attachment.

Art. 154. A writ of attachment on the output of a mine cannot be issued in ordinary proceedings without a hearing, and a presumptive title of ownership or right favouring the applicant.

CHAPTER XV.

EXECUTIONS AGAINST MINES.

Art. 155. In execution proceedings, neither the debtor's mine nor the equipment or provisions brought into it for working purposes, can be levied against or transferred without the miner's consent granted in the course of the proceedings, but the execution may be levied against existing minerals extracted from the mine, without prejudice to the right of preference established in Article 99.

Art. 156. If the proceeds of those minerals, and of other property levied against are insufficient to satisfy the debt, the creditor shall be entitled to take over the administration of the mine as security until he has paid himself with its proceeds.

Art. 157. The creditor to whom the mine is delivered as security, shall administer it with the care and subject to the same obligations as the law imposes on partners who act as managers.

If the mine is not sufficiently productive to attend to its legal and prudent working, he may obtain an authorization from the judge to take it over in avio, and to hold it in restraint as aviadores are entitled to do, not only to satisfy the sums employed in the avios and the current rate of interest after the commercial style, but to satisfy the original debt.

Art. 158. While the mine is in the hands of the creditor, the miner is entitled to visit it, inspect the works, examine the account books and vouchers, either personally or by proxy, and to make any observations and objections suggested to him by the system of book-keeping and working methods.

He may also apply for the appointment of a trustee vested with the powers granted in Article 152.

Art. 159. Should the creditor not work the mine in such a manner as to keep it in proper condition, or should he be convicted of fraud in the administration, or should it appear that said administration is careless and extravagant, notwithstanding his attention having been called to this abuse and objection made to it, he shall forfeit the right of administering the mine, and may only apply for the appointment of a trustee to receive the net output of the mine on account of the creditor.

Art. 160. In the case of insolvency or bankruptcy of miners, the creditors shall be called upon to take over on their own account, if they are willing to do so, the working and management of the mine, and those consenting to do so shall have the same rights and obligations allowed to parties that apply for a writ of execution.

The foregoing is without prejudice to the rights granted to mortgagees and to aviadores.

Mortgagees and privileged creditors of the mine shall be entitled to preference in taking over the administration of the same.

TRANSITORY ARTICLES.

Art. 161. The present possessors of mines are entitled to create their claims in the form determined in the present Code, without prejudice to the rights of third parties.

Art. 162. As regards deposits of coal on the sea-shore and the adjacent sea, the present workers who apply for a concession within the term of one year, and for an extension of their present workings, shall be preferred to other applicants.

Art. 163. The President of the Republic shall regulate the working of the substances that may be made free use of, referred to in Article 4, and the cases in which mining claims may be located, in accordance with the second part of the same article.

Art. 164. The President of the Republic shall have the right to make such regulations as may be necessary to facilitate the payment of taxes, sale of the mines at auction, and organization of mining registers and of a body of mining engineers.

Art. 165. This Code shall be in force from the 1st of January, 1889, and from that date the pre-existing mining laws and special ordinances shall be abolished, even when not contrary to it.

Art. 166. Present mine owners shall not be under the obligation of paying the tax until the date indicated in Article 133.

And wherefore, after hearing the council of State, I have considered it well to approve and sanction it; therefore, let it be promulgated and carried into effect in all its parts as a law of the Republic.

JOSE MANUEL BALMACEDA.

JULIO BANADOS ESPINOSA.

CODE OF CIVIL PROCEDURE.

CHAPTER XVII.

SUITS AT LAW IN MINING MATTERS.

Art. 918. Mining suits in which rights especially subject to the Mining Code are at issue, shall follow the proceedings established for commercial matters in paragraph 1, Chapter XVI, of this book.

Art. 919. There shall be submitted to the summary proceeding established in Chapter XII:

1st. Questions relating to the creation and exercise of rights acknowledged by law in favor of mines and operating plants, and to the corresponding indemnities;

2nd. Those arising by reason of the exercise of the rights to which adjacent miners are entitled of visiting neighboring mines and of obtaining the provisional stoppage of the works and affixing of seals in drifts that have trespassed upon a claim;

3rd. Those referring to the administration of the mine by a creditor levying execution when the mine has been delivered to him as security.

Art. 920. Creditors of insolvent miners, shall be called upon in the terms of Article 160 of the Mining Code, at the first meeting to which they shall have been convened.

Any question arising as to the rights conferred upon them by said article shall be treated as an incident.

COLOMBIA.

CONTENTS.

	Page.
Constitution of 1886.....	562
Law of 1887.....	562
Law of 1903.....	562
New fiscal code.....	563
Reservations of petroleum.....	563
Beds and deposits of hydrocarbons.....	564
Preliminary provisions.....	564
Contracts of leasing.....	566
Exploitation.....	569
Fiscal provisions.....	570
Final provisions.....	571
Decree No. 314 of 1920 developing Law 120, 1919, on hydrocarbon deposits.....	573

CONSTITUTION OF 1886.¹

CHAPTER XIX.

Article 202. The Republic of Colombia owns:

1. The property, revenues, lands, rights and actions which pertained to the Colombian Union on April 15, 1886.

2. The public lands, mines and salt deposits, which pertained to the States, the dominion of which is recovered by the nation, without prejudice to the rights constituted in favor of third parties by said States, or in favor of the latter by the nation through title of indemnity.

3. The mines of gold, silver, platinum, and precious stones, existing in national territory, without prejudice to the rights which may have been acquired by virtue of previous laws by the discoverers and exploiters of any of them.

LAW 1887.

NO. 38.

NOTE: This law adopts and embodies the Code of Mines of the extinct southern State of Antioquia as the law of the Republic:

Chapter 1, Article 1. The mines existing in the Territory of the State belong:

1. To the Nation, those of emeralds and of rock salt.
2. To the State, those of gold, silver, platinum and copper.
3. To the owner of the land all the rest of whatever class they may be.

* * * * *

From 1887, when the mining code was adopted, there was no legislation affecting petroleum development until 1903, when the first law specifically mentioning petroleum was passed.

No. 30.

LAW 1903.

OCTOBER 22, 1903.

* * * * *

Article 3. The dispositions of the Fiscal Code (1873) referring to coal shall be applied also to deposits of asphalt of whatever class, consistency or color,

¹ Under early legislation, 1858 to 1886, petroleum and virtually all mining property was under the jurisdiction of sovereign confederate states.

(This is the constitution in force at present.)

of petroleum or mineral oil of whatever grade or class, of natural gas, and of any other products of the same or analogous nature.

* * * * *

Article 5. No contract which the Government may clearly celebrate for the transfer or exploitation of coal mines and deposits of asphalt, petroleum or natural gas, belonging to the same, shall be valid without the approval of the Congress.

NOTE: This law of 1903 placed petroleum on the same basis with coal and under the Fiscal Code of 1873 no claim was made by the Government to rights concerning coal on private lands. Provisions of the Fiscal Code (Art. 1116 ff) relative to coal mines were made applicable to deposits of asphalt, mineral oil and natural gas. Under these provisions, the State reserves the ownership in all deposits found in public lands.

No claim was made by the State as to rights concerning coal on private lands.

NEW FISCAL CODE.

CODE 1912.

LAW NO. 110.

(Code now in force).

* * * * *

Article 4: Fiscal property of the State includes:

(a)—That which has this character by virtue of article 202 of the Constitution, without prejudice to the rights acquired by persons or corporations.

(b)—Copper mines existing in national territory, also without prejudice to the rights acquired by persons or corporations.

(c)—The mines, distinct from those mentioned in Article 202 of the Constitution and in clause (b) of this Article, as those of coal, iron sulfur, petroleum, asphalt, etc., discovered or which may be discovered in public lands or in land which in such character (as public lands) may have been adjudicated subsequent to October 28, 1874 (the date the Fiscal Code of 1873 came into force), also without prejudice to the rights acquired by persons or corporations.

* * * * *

Article 112. All petroleum mines found within public lands, or that have been adjudicated as such after the enforcement of law 30, 1913 may be denounced by their discoverers, within the extension, by the procedure and through the payment of the royalties demanded by the State pursuant to the Mining Code, through the denouncement and the exploitation of alluvial or lode gold mines.

All petroleum mine denouncers shall enjoy with regard to the public lands the easements referred to in Article 54 and have a right on any estate of private ownership, for the establishment of a pipe line, the right of way and other rights of a legal character pursuant to the stipulations of common right.

NOTE: Article 112 of the Fiscal Code, 1912, provided that petroleum mines "discovered on public lands could be denounced in the same manner as placer gold mines, but this clause was specifically annulled by Law No. 75 of 1913.

RESERVATIONS OF PETROLEUM.

LAW 1913.

NO. 75.

Article 1: The Nation reserves the proprietorship of the deposits and sources of petroleum and of hydrocarbons in general, situated in public lands, or in lands which pertain to the Nation by virtue of any other title.

Article 2: Until the passage of a law regulating the denouncement and adjudication of sources of petroleum and hydrocarbons in general, situated in public lands, it will only be possible to make temporary concessions of these rights by virtue of contracts approved by the Congress.

Article 3: Article 112 of the Fiscal Code is hereby annulled.

NOTE: The foregoing is presumed to cover all legislation affecting petroleum development down to the issuance of the President's decree of June 20, 1919.

On June 20, 1919, the President issued a decree containing twelve articles defining the ownership of minerals, including petroleum and providing for the methods of obtaining and operating the same. On September 2, 1919, the Attorney-General by petition and argument asked the Supreme Court to hold invalid the decree of the President on the ground of want of authority to make the decree and its unconstitutionality. The Supreme Court by opinion of November 21, 1919 sustained the Attorney-General's petition and declared the decree of the President invalid.

The Congress then in session on December 30, 1919, enacted a new law covering the subject of petroleum, and all hydrocarbons, and other minerals. This law deals exclusively with public lands and was drafted in accordance with a decision of the Supreme Court and is as follows:

BEDS AND DEPOSITS OF HYDROCARBONS.

LAW 120 OF 1919.

DECEMBER 30, 1919.

THE CONGRESS OF COLOMBIA DECREES:

CHAPTER I.

PRELIMINARY PROVISIONS.

Article 1. For the purposes of this law, the denomination hydrocarbon includes all the sub-soil formations of mineral oils, such as petroleum of every kind, natural gases taken from the same formations, bitumens, asphalts, fossil wax and rosin.

The provisions of this law shall not apply to asphalt deposits that are worked for the manufacture of pastes therefrom to be consumed in the country.

Exported asphalt will pay a tax of 6, 4 or 2 per cent according to the zone from which it comes, in accordance with Article 2.

Article 2. For the purposes of this law the territory of the Republic is divided into three zones, namely:

First—Including the beds or deposits lying at a distance of 200 kilometres or less from the shore of the sea, which shall pay a minimum operation tax of 10 per cent of the gross product.

Second—Including the deposits lying at a distance of more than 200 kilometres and not more than 400 kilometres from the shore of the sea, which shall pay a minimum tax of 8 per cent of the gross product, and—

Third—Includes the deposits lying more than 400 kilometres from the shore of the sea, on whose gross product there shall be paid a minimum tax of 6 per cent.

Contracts drawn up under this law shall provide that the tax set on the basis of the minimum fixed by this article, shall be increased by one unit for every ten years of operation.

Article 3. Under all contracts of lease of beds or deposits of hydrocarbons lying in unclaimed (uncultivated) lands or lands recovered or to be recovered by the nation on account of annulment, lapse or rescission of the awards thereof, that have been made; in lands which the nation may have acquired or shall acquire by any title whatsoever, and in those which may belong to it as fiscal property, there shall be paid in addition to the tax referred to in the foregoing article, an annual rate of \$0.10 per hectare of the concession in the first year, and \$0.20 in the second, \$0.50 in the third and \$1.00 in the fourth and thereafter until the expiration of the lease,

On lands awarded or ceded as unclaimed (public) lands after October 28, 1873, there shall only be paid the operation tax determined in accordance with the foregoing articles.

This bust without prejudice to the land-owners' right to collect from the operators such indemnities and royalties as may be due to him under chapters 12 and 13 of the Mining Code.

Article 4. On lands other than those enumerated in the foregoing article, there shall be no occasion to pay to the Nation the annual rate of lease therein expressed on account of the surface area, and the operation tax shall be a fixed percentage of 8, 6, and 4, per cent of the gross product, respectively, in each one of the zones described in article 2.

Article 5. After twenty years, counted from the taking effect of this law, if it should come to the Government's knowledge that deposits of hydrocarbons exist in lands other than those enumerated in article 3, and not yet operated (developed) in accordance with Article 25, the Government shall have the right to take such steps to ascertain whether such deposits are likely to yield hydrocarbons in merchantable qualities and quantities. If the investigations should yield satisfactory results, the Government shall exact from the owner of the land an annual tax of \$5 per hectare on the land containing such deposits, which tax shall be collected unless the owner of the land agrees to undertake and carry out the exploitation of the deposit, in which case he shall be subject only to the corresponding exploitation taxes demanded by the laws in force on the subject and in accordance with the commercial requirements that the government may deem advisable.

Article 6. All aliens having any interest whatsoever in the exploitation of hydrocarbons referred to in this law, shall make an express declaration to the effect that they abide by the provisions of law 145 of 1888 "relative to alien-ship and naturalization" and other laws supplementing and amending that.

Article 7. The right to develop the beds or deposits situated in lands specified in article 3 is acquired by the granting of a lease by the Nation to any natural or artificial person, who, under the common law, may be competent to assume obligations as a lessee and acquire the right to be such a lessee under the provisions of this law.

Article 8. The lessee may transfer or sublet the grant referred to in the previous article, subject to the approval of the Government. When the sublessee or transferee is an alien, he shall make a declaration mentioned in Article 6.

Article 9. The industry of hydrocarbon development and operation and the construction of oil pipelines are declared to be public utilities.

Article 10. The provisions of chapters 12 and 13 of the Mining Code shall apply insofar as they are consistent with the nature of the operation of the beds and deposits mentioned in this law.

In addition, and with a view to promoting the operation of such beds and deposits, the right is hereby reserved to established or create easements for oil pipe lines and including the land necessary for the pumping plants and other appurtenances necessary for the proper operation of the pipes and to build wharves, loading stations, and submarine or subfluvial pipes, all this subject to the previous permission that the Government may grant with the full knowledge of the circumstances and subject to the provisions that may be decreed in the matter.

Persons or entities that may enter into contracts with the Government or obtain its permission to lay oil pipes, without conducting any special work of operating hydrocarbons, shall enjoy the same rights.

The rates of the oil pipe concerns will be subject to the approval and revision of the Government.

CHAPTER II.

CONTRACTS OF LEASING.

Article 11. For the purpose of prospecting for deposits treated of in this law the unclaimed lands that may be granted shall be open to free prospecting.

Article 12. In order to prospect unclaimed land that can not be awarded or granted on account of reservation decreed by the nation, and any other land referred to in article 3 of this law, there shall be required a license of the government, which it shall issue to applicants provided there be no special circumstances involving fraud or grave peril to the nation, and provided that the applicants shall bind themselves to deliver to the government the topographic plans of the lands prospected by them and reports with regard to the mineral resources of the same.

The license to prospect may be withdrawn by the Government at any time when it may see fit, and does not vest anyone who shall have received the same with any preferential right for contracting.

Article 13. In order to prospect land awarded or ceded as unclaimed land later than October 28, 1873, if the operation is to be made by a person other than the owner of the land, it will be necessary, in addition to the license which the Government is to issue in accordance with the preceding article, to give previous notice to the owner of the land or to the person who is found to be in charge of it.

The person so notified may not prevent the prospecting, but the owner will be entitled to indemnity to be paid by the prospector for any damage that may be done. In the absence of an agreement, the damages shall be fixed by experts (appraisers) appointed by the parties and a third appointed by the judge, and the damages shall be determined by the value and by the location of the property.

Article 14. Any one wishing to lease for prospecting the deposits referred to in this law shall put his proposal in the form of a memorial (petition) addressed to the Ministry of Public Works and presented in person by the applicant or his attorney at the secretary's office of the said Ministry or to the highest political or judicial authority of his place of residence.

Proposals will be taken into account by the Government, in the order as to time in which they were filed. For this purpose, there shall be kept in those offices a special book where entries will be made of the contract proposals precisely stating the day, hour, and place of presentation.

Article 15. The proposals (applications) shall be made in the following form and in accordance with the following requirements:

I. It shall state the municipal district and the point or part where the beds or deposits are.

II. The zone of exploitation shall be defined by clearly stated bounds, which shall be not more than 5000 or less than 1000 hectares. To that end the application should be accompanied by topographical and geologic maps or plan giving a clear idea of that zone and the deposits it is intended to develop.

III. The names and nationality of every one of the persons for whom the lease is sought, and the share or interest that each one represents in the application or proposal.

This does not bar subsequent changes in the proposal in that respect through a declaration in writing addressed to the Ministry of Public Works. But in order that such declarations may be effective, it is an indispensable condition that they be signed by all the parties in interest and presented by them in person as stated in Article 14.

IV. If the contract is sought for a company, it should be stated who is the company's legal representative and giving the domicile and residence of the such representative.

V. When any one of the persons appearing in the proposal is neither a native nor a naturalized Colombian citizen, the requirements set forth in article 6 shall have to be complied with.

VI. The memorial (application) should state that the applicant submits himself to all the provisions of this law, especially with regard to the government supervision, payment of taxes, rate of lease, and ground for forfeiture, etc.

VII. There shall be expressed the amount or rate of rent that the applicant offers to pay and the other circumstances which may make the contract more advantageous to the nation under the general conditions of the law.

Article 16. In case only one application shall have been received for one sole bed or deposit, the lease may be granted to the applicant; provided that a favorable decision be previously given by the Treasury Board, created by Law 109 of this year and approved by the Council of Cabinet ministers, all of whom deem it to be expedient for the interests of the country.

Article 17. If there should be several applicants, preference, all conditions being equal, for the conclusion of the contract, shall be given to him who can prove that he discovered the bed or deposit.

If there be no such discoverer among the applicants, preference, all other things being equal, shall be given to the persons or entities who duly give security for their contractual obligations or are in a position to conduct the operation by themselves, and among these, to those who, in the opinion of the government, offer the best guarantees of solvency, respectability or security.

The landholders in lands ceded or adjudged as unclaimed later than October 28, 1873, and before the taking effect of the law 30 of 1903, shall receive preference, all conditions being equal, for the term of two years counted from the taking effect of this law in the making of the lease-contract. At the expiration of that term, the provision in the first part of this article shall rule with regard to such lands.

The government shall prescribe the necessary measures to make sure that no beds of hydrocarbons, lying in land which may by any title belong to the nation, are operated as private property.

All exploiters of petroleum deposits lying in lands distinct from those dealt with in article 3 of this law shall bring before the respective Department proof that the municipal, departmental or national taxes due on the land that has been operated, have been paid by the owner of the land for the previous period of not less than ten years.

Article 18. Rights lawfully acquired prior to the taking effect of this law can not be affected by contracts entered into by virtue of this law and the Nation declines responsibility for such interference or limitation in the enjoyment of the property leased that may be caused by the lawful exercise of such rights.

It is understood that the exploitation tax shall be covered in every case by the person concerned.

Article 19. Upon receipt of the proposals, if the Ministry should before passing upon them have doubts as to the authenticity of the documents or the accuracy of the plans presented, the good standing or solvency of the applicants or any other point that may properly be investigated, investigation shall be ordered to establish the facts, at the expense of the interested parties.

Article 20. Before passing upon the proposal or application, the Ministry shall publish in the *Diario Oficial*, an abstract or summary thereof, in which will

be stated the district (region), the number of hectares, the rate of lease and such other data as may be expedient.

No proposal (application) shall be passed upon, until ninety days from the date of its first publication.

The application shall be communicated to the municipal councils in whose jurisdiction the deposits are located and shall also be published in the official journals of the respective Departments.

The applications shall not be passed upon without production of all the possible data as to the degree of richness of the deposits, the quality of the products and the other details that may bear on the profits of the development or operation.

Article 21. The applications when passed upon by the Ministry, shall be submitted (or referred) to the Board of Finance created by Law 109 of this year and to the Council of Ministers and the lease contract shall be entered into with the person preferred by those bodies jointly.

Article 22. If, within three months after the day on which the choice referred to in the previous article shall have been made, the person chosen by the Board of Finance and the Council of Ministers should not appear to perfect the lease contract, action will be taken to pass upon the remaining proposals (applications) and the new ones that may have been presented, taking them in their respective order and subject to the provisions of the foregoing article.

Article 23. All lease contracts shall set forth:

1. The demarkation of the zone included in the lease with a designation of the azimuth of the lines forming the constituent rectangle of the zone.

2. The full names of the parties (lessees) to the contract, their nationality and residence. If a company or judicial person is concerned, the corporate or firm name shall be stated and the name and residence of its legal representative.

3. A declaration to the effect that all alien persons or companies with which the lease is made or those that are partners therein, if such be the case, have expressly stated their acceptance of Law 145 of 1888 relative to Alienage and Naturalization, and to all other laws amending and supplementing it, and that they subject themselves to the jurisdiction of the authorities of the Republic.

4. The prohibition against transferring or sub-letting the contract to foreign governments or admitting them into partnerships under penalty of forfeiture ipso facto of the lease-contract. Any other transfer or subletting can be made with the Government's approval.

5. A statement that the Government reserves the right to supervise in such manner as it may deem advisable all operations of the concern and the manner in which it complies with its obligations, including the technical as well as the fiscal and economic features and the right to take measures to make the rights of the nation effective.

6. A declaration that the lease is given for the term of 20 years, that many be extended for ten years more at the Government's consent or discretion. During any such extension the contract shall be governed by the laws then in force.

7. A statement that at the expiration of the contract or of its extension, and in any one of the cases of forfeiture specified in Article 29 of this law, the Nation will acquire free of charge the ownership of the machinery and all other improvements and structures that may be found within the concession, all of which the Government may take de facto possession without the necessity of any judicial proceedings whatsoever.

8. The declarations required by the Fiscal Code and Law 53 of 1909, relative to sureties and penal clauses. The amount of the security shall be fixed by the Government and shall not be less than \$20,000.00.

9. The causes of forfeiture given in this law and in the Fiscal Code; and

10. A statement that the contract in order to be valid must, in accordance with Article 37 of the Fiscal Code, be approved by the President of the Republic, by the Board of Finance and by the Council of Ministers, subject to revision by the Council of State.

Article 24. No person, either native or naturalized, can secure a lease, by direct contract, concession, or transfer, for more than three working zones of five thousand hectares each in the same department, intendencia, or comisaria.

CHAPTER III.

MINING EXPLOITATION.

Article 25. By exploitation is understood to mean the extraction of the mineral wealth or of the raw product of the deposits, and all deposits coming within the terms of this law shall be considered to be under exploitation when there shall have been installed and in running order a plant with the machinery and other equipment that may be deemed necessary for the working of the substances referred to in the contract, provided, that the extraction of the minerals shall have been already begun.

Par. Every petroleum deposit shall be operated in accordance with its capacity. The Government shall supervise the efficiency of the exploitation and operations and shall have the right to fix the minimum of production in every case.

Article 26. The exploitation of all deposits of hydrocarbons undertaken within the territory of the Republic shall be subject to all regulations the Government may make to guaranty public and private safety, the health and life of the laborers employed therein and the due fiscal regulations of the operations of all wells, tanks, deposits, oil pipes, shipping facilities, and refining plants.

Article 27. Every operator in charge of exploitation is bound to furnish the Government with such technical and economic data as it may require in connection with the exploitation, to admit within his works the students of official schools who may wish to make a practical study of the industry treated in this Law, and to employ in his exploitation works as far as possible Colombian laborers in the proportion of not less than 50 per cent.

Article 28. Deposits located in lands others than those enumerated in the first paragraph of Article 3, can not be exploited without due notice thereof given to the Ministry concerned not less than sixty days in advance and after the beginning of exploitation there shall be presented within the following year at the aforesaid Ministry a plan of the exploited zone presenting the conditions set forth under number 1 of Article 23.

Par. The plan shall be accompanied by a report on the condition or status of the exploitation, the work that has been done on the wells or galleries that may have been dug or drilled, their depth, the kind and quality of the mineral substances that may have been extracted therefrom, and other statistical and illustrative data such as diagrams of the geologic strata exploited.

Par. Violation of the provision relating to the sixty day notice, shall incur a penalty equal to double the tax for a period of not less than one year, and the Government shall fix the corresponding penalties with regard to the other obligations of the foregoing paragraph.

Par. Any other violations by the operators of the deposits referred to in this law will come under the common law bearing on the subject.

Article 29. The forfeiture of the lease-contracts shall be declared administratively by the Government in the following cases:

1. When lease-contracts have been transferred to foreign governments, or when foreign governments have been admitted in partnership into the exploitation of the leased deposits;

2. When the right of supervision reserved to the Government under number 5 of Article 23, is hindered, or in any way evaded, or when the measures taken by the Government to protect the rights of the Nation are not put into practice;

3. When the rentals and taxes due on the deposits referred to in this Law are not promptly paid in full. It is understood that rentals and taxes are not promptly paid when the payment is not made within the time set in the articles of this Law relating thereto;

4. At the expiration of five years from the date of the concession if it is found that the deposits are not continuously operated within the terms of Article 25, or when the working of the deposits shall have been suspended for a whole year, unless such suspension shall have resulted from the act of God (unavoidable or unexpected cases) or fortuitous causes in accordance with the civil laws.

In order for a declaration of forfeiture to take effect it is necessary to give notice or in the manner described in Article 25, and following ones of the Law 105 of 1890, to the lessee or his legal representative in person.

The decision of forfeiture shall be published in the *Diario Oficial* and in the official journal of the Department concerned.

CHAPTER IV.

FISCAL PROVISIONS.

Article 30. The government may collect the tax referred to in the foregoing article in kind or in currency at its option.

If the tax is paid in kind, the percentage shall be delivered in the tanks or storage places that each concern may have at the shipping port, or port of embarkation, used by it for shipment of its own products, and, if the payment is made in money, the rate of charges shall be fixed by the Government, based upon the average price in the New York market for the preceding quarter, for the same quality and kind of products as those under consideration. For this purpose, the Government shall cause to be taken samples and such other data as it may deem necessary at the points of embarkation and it shall keep duly informed as to the current quotations of prices.

Article 31. The petroleum deposits awarded during the period while Article 112, of Law 110 of 1912, was in force, shall pay the annual rate referred to in article 3 from the day of the going into effect of this law, the extent of the concession being taken into account, except the undeveloped deposits that may be in dispute with the Nation.

NOTE: Article 112, Law 110 of 1912, was annulled by Law 75 of 1913.
See page 563.

They shall also pay the charges in accordance with the provisions of Article 2 of this Law.

Operators of such deposits shall be further liable to the obligations stated in Article 28.

The provisions of this Article do not imply a recognition of the validity of the awards herein referred to.

Article 32. The taxes and charges imposed by this law shall be paid within the periods of time set by the Government.

Article 33. In order that the Government may ascertain the accuracy of the liquidation of the exploitation taxes, it shall have the right at all times to in-

spect and examine the account books, balance sheets, itemized statements of receipts and expenditures, copy books, letter files, records, and in general, all the accounts of the concern and the vouchers relating thereto, through such employee or employees, as the Government may appoint for the purpose.

The concern shall keep its books and accounts within the country and in the Spanish language and in accordance with the commercial code of the Republic.

Article 34. Of the total taxes imposed on hydrocarbon exploitations, according as the deposits are found within the respective territories, 30% belongs to the Department, 5% to the municipal government, and the remainder to the Nation.

The respective liquidations shall be made semiannually through the office of the general treasury of the Republic and the quotas belonging to the Department and municipalities shall be delivered to them.

Article 35. The exploitation and working of the deposits referred to in this law, the transportation of the products, the machinery and the equipment necessary for its use and for the construction and maintenance of pipe lines shall be exempt from all kind of Departmental or municipal taxes, direct or indirect, that might be assessed thereon.

Article 36. Hydrocarbons extracted from the deposits referred to in this law can not be subjected to any departmental or municipal tax.

CHAPTER V.

FINAL PROVISIONS.

Article 37. All lease-contracts that may be made within the following zone:

"From a point 18 kilometers east of Punta Arboletes a straight line ending at Cape Tiburon; to the east and west of the given points two parallel lines running south until they reach a distance of 60 kilometers north of the extremity of the Gulf of Uraba; on the south join these two parallels above described by a line drawn from the east to west," shall be subject to the provisions of this law insofar as they are not incompatible with the following stipulations:

(a) In the said zone, there shall be no preferential right by reason of discoveries;

(b) The minimum exploitation tax shall be 20% of the gross product;

(c) No one person or entity shall be given a lease in that zone for a tract of land larger than 5000 hectares, unless such lease contract comprises fiscal operations such as are authorized by the laws in force, and may yield resources to the exchequer (Treasury), aggregating not less than \$20,000,000.00. In that case, the zone leased for the exploitation of hydrocarbon deposits may reach as high as 100,000 hectares in continuous zone.

If, for the fiscal operation relative to the flotation of the loans for the amount above stated, it should become necessary for the Government to pledge as a security or guaranty, the percentage of the exploitation tax that is due to the Nation on the lands leased, the Government may authorize it.

In such cases, the exploitation tax that is fixed on the basis of the minimum stipulated in this article, shall likewise be apportioned in the form specified by article 34 of this law.

With regard to lands of the Nation, the provisions of this article shall also apply to the following zone:

From a point between Cocalito and La Ardita up to the border with Ecuador, a tract of land 20 kilometers wide besides the territorial sea zone.

No contract shall be made as to the deposits existing in the zone, of which this article treats, unless the Government has had an accurate and complete survey and report made by competent geologists, as to the richness of these deposits.

Article 38. The Nation reserves the right to exploit all deposits that may be found under the waters of the territorial sea, lakes, and navigable rivers. Therefore, in order to have such deposits exploited, it will be necessary for Congress to approve the contracts authorizing them.

Article 39. The Bureau of Mines of the Ministry of Public Works shall consist of two sections: one charged with the administrative and legal affairs of the mining branch, and the other charged with the engineering and geological affairs of the same branch. The first section shall consist of a Chief, expert in mining legislation and jurisprudence, and three subordinate employees.

The second section shall consist of a Chief, who should be a mining engineer or a geologist, an assistant engineer and three additional geologists who are petroleum experts.

To provide for the payment of the personnel and equipment of the Bureau of Mines and for the installation of the laboratory, mineralogical and paleontological museum, the monthly publication of a mining bulletin, library, etc., etc., there shall be appropriated in the national budget of expenses, beginning with the next estimate, a sum of \$100,000 annually.

The Government shall appoint the geologists above referred to from within or without the country, endeavoring to secure those offering the best guaranties of competency and impartiality.

Article 40. The Government shall appoint the personnel of the sections mentioned in the previous article as the necessities of the administration may demand, and it is hereby authorized to fix the salaries of the employees and to make the respective contracts with the technical experts, which contracts shall be valid without the approval of Congress.

Article 41. All contracts for the exploitation of petroleum deposits made by the Ministry of Public Works that should be or may have been submitted to the Congress for its approval, and that shall not have been approved by express law before the present law goes into effect, shall be considered as disapproved.

Article 42. The lease-contracts treated of in this law do not require further approval by Congress, except insofar as Article 38 provides.

Article 43. The Government is empowered to make regulations (by-laws) for this law.

Article 44. For the purpose of extensive circulation of this law in this and in foreign countries, a special edition of this law shall be published in such languages as the Government may deem necessary, and in such publication there shall be inserted the legal provisions in force on the subject of alienage and naturalization.

Article 45. The Nation reserves the right to the exploitation of radio-active substances, such as radium or helio-radium.

Sec. 46. All legal provisions contrary to this present law are hereby repealed.
Given at Bogota on the 29th of December, 1919.

FLORENTINO MANJARES,

President of the Senate.

NICASIO ANZOLA,

President of the Chamber of Representatives.

JULIO D. PORTOCARRERO,

Secretary of the Senate.

FERNANDO RESTREPO BRICENO,

Secretary of the Chamber of Representatives.

Executive Power, Bogota, December 30, 1919.

Let it be published and executed,

MARCO FIDEL SUAREZ,

Minister of the Territory, in charge of the Ministry of Public Works.

DECREE NO. 314 OF 1920 (FEBRUARY 11).**DEVELOPING LAW 120, 1919, ON HYDROCARBON DEPOSITS.**

The President of the Republic of Colombia, in the exercise of his legal powers—

DECREES :

Article 1. For the purposes of the second paragraph of Article 1 of Law 120, 1919, the term "asphalt" shall not be construed to include any low grade petroleum or solid compounds of hydrogen and carbon yielding or containing more than a twenty-five per cent (25%) of liquid hydrocarbonated substances.

When any product exported as asphalt does not come under such condition it shall pay petroleum taxes.

The Ministry of Public Works shall make the necessary regulations in order to enable Custom Houses to supervise the enforcement of this provision.

Article 2. Any petroleum extracted from asphalts and consumed within the country shall pay the exploitation tax established in the law.

Article 3. The determination of distances for the classification of the zones referred to in Article 2 of the law, shall be made in a straight alignment, taking as a starting point the sea shore in the port from whence the products shall be exported.

Article 4. On making a lease-contract, the Government, when fixing the taxes that must exceed the minimum fixed by law, shall take into account the greater or lesser facilities found within the respective zone for the exportation of oil deposit products.

Article 5. All superfiiciary taxes shall be paid annually by depositing these sums in the General Treasury of the Republic, or in the Administration of National Finance (Administracion de Hacienda Nacional) of the respective Department, not later than thirty days after due.

The stipulations contained in the final part of the first paragraph of Article 2, Law 120 of 1910 in regard to lands ceded or awarded, such as public lands after the 28th of October 1873, shall also apply to such lands as may be ceded or awarded in the future.

Article 6. When the exploitation tax is paid in kind, it shall be paid at whatsoever date the Government may deem convenient, according to the quantities of petroleum products on hand within the tanks or storage places referred to in Article 30 of the aforementioned law, and if the taxes are paid in currency, such payments shall be paid semiannually in the first fifteen days of January and July of each year.

Article 7. The Consul General of Colombia and the Bureau of Information and Propaganda in New York shall advise the Government on the first of each month by cable, in regard to petroleum prices, as determined by quality and kind.

Article 8. By virtue of the declaration of public utility made in Article 9 of the Law in favor of all hydrocarbons and pipe line exploitation industries, and because petroleum is by the law taxed with special charges, any oil company or pipe line construction company shall be exempt from the payment of any river taxes for any material intended to be used by them in their works or for any product of oil exploitations that may be subject to exploitation tax.

Article 9. The establishment and exploitation of pipe lines shall be the subject of a special regulation (by-laws), as soon as the data and survey reports have been completed for such purpose.

Article 10. The Government shall be empowered to grant the licenses referred to in Article 12 of the law to different persons on the same tract of land. On granting each license a period not longer than one year shall be fixed in which the plans and reports referred to in the above Article must be presented; at the expiration of this period the license shall be considered as withdrawn.

Article 11. For the purposes of Article 17 of the law, the character of the discoverer of the oil deposits shall be established by the usual methods in legal procedure.

Article 12. It is the duty of all Governors, Intendentes, or Prefects, Alcaldes, and Corregidores (mayors of small towns), to enforce compliance with Paragraph 3 of Article 17, of the Law and to furnish to the Government all necessary reports, in order that it may prevent any private exploitation of hydrocarbon deposits situated on lands that may belong to the Nation by any title whatsoever.

Article 13. For the purposes of Article 24 of the Law, no lessee who may have acquired the right to develop bicarbonate deposits in one department, intendencia, or comisaria can lease any contiguous zone belonging to any department, intendencia, or comisaria, except for the extent necessary to complete the three zones referred to in said Article.

Article 14. The Government shall apportion among the several Departments or municipalities, should such be the case, any portion or share established by Article 34 of the Law, whenever the same deposit under exploitation may include any land belonging to different Departments or municipalities.

Be it enacted and published.

Given in Bogota, February 11, 1921.

(signed)

MARCO FIDEL SUAREZ.

The Minister of the Treasury, acting as Minister of Public Works.

ESTEBAN JARAMILLO.

DUTCH GUIANA.

No petroleum laws have been obtained.

ECUADOR.

CONTENTS.

	Page.
Petroleum deposits—Onership—License fees-----	575
Petroleum tax-----	575

PETROLEUM DEPOSITS—OWNERSHIP—LICENSE FEES.

The congress of the Republic of Ecuador decrees the following transitory provisions:

Art. 1. Petroleum deposits not yet adjudicated according to law belong exclusively to the State; and no individual may make entry thereon until such time as the new law on the subject shall be enacted.

Accordingly further action on the filing of entries already made is forbidden, until the enactment of the new law, and all entries on which the definitive right of the claimant shall not have been completed shall confer neither title nor preference, except as may be granted by the new law.

Art. 2. Should payment of the patents not be made within the term fixed in the mining code, the right that had been granted shall be forfeited *ipso facto*, without prejudice to the obligation to pay amounts already due and unpaid.

Art. 3. The right of adjudicators who, within the term of two years, reckoned from the date on which the present law goes into effect, have not begun to develop the deposits granted them, shall likewise be forfeited *ipso facto*.

Art. 4. Until such time as the new law shall be enacted, rights formerly granted to petroleum deposits shall neither be alienated nor transferred by any method *inter vivos*.

Art. 5. Petroleum deposits shall pay as a license fee an annual amount on the gross output of each mine. This proportion, which shall not be less than 5% nor more than 10% shall be fixed for each oil zone by the Executive Branch of the Government, at the beginning of each fiscal year.

Art. 6. This law shall go into effect from the day of its publication in the Official Gazette.

QUITO, October 18, 1919.

PETROLEUM TAX.

Pursuant to Article 5 of the legislative decree approved October 18, 1919, the Executive under the power conferred, decreed a tax on petroleum as follows:

Art. 1. To fix for the present year of 1920, six per cent of the gross proceeds of each one of the petroleum mines in operation at the present time, as the value of the tax on such mines.

Art. 2. The petroleum mines that are not being worked shall pay the tax in the manner established in the general regulations of the mining code.

Art. 3. The petroleum mines that are in operation at the time of the promulgation of the present decree, shall be recorded in a register that will be kept in the office of the governor of each province.

Art. 4. With the certificate of registration, the producers shall obtain the respective permits in the office of the treasurer of each province for the number of gallons of petroleum that they desire to move.

Art 5. These permits shall be issued in duplicate and be disposed of as follows: The original shall be delivered to the conveyer of the article for presentation in the office of the customs guard, if the petroleum is intended for exportation, or to the collector at the place of consumption. The employee of the customs guard, on finding the shipment in order, shall remit the permit to the fiscal collector of the canton into which it is being shipped, for the collection of the respective so much percent. The two stubs shall be retained by the fiscal collector of the canton where the mine is located, who will send one of these stubs to the office of the treasurer of the province into which the petroleum shall have been shipped, in order to establish the due supervision between what was received by the customs guard or collector and what was despatched. The other copy shall be retained in the office of the collector of the canton where the mine is situated.

Every shipment not covered by this permit, as also the excess in the mobilization, shall be considered as contraband, and therefore subject to the penalties established in the law.

Art. 6. The permit shall be issued by the Ministry of the Treasury, the same as other fiscal business.

Art. 7. The payment of the six percent on the gross proceeds shall be made by computing the price per gallon of petroleum on the basis of the market price for the article in the market of Guayaquil, at the time of the movement.

Art. 8. The administrators of customs shall not give despatch to the petition of exportation if not accompanied by the certificates of having paid the corresponding tax to the fiscal collector mentioned in article 5 of this decree.

Art. 9. Mines placed in operation after the promulgation of this decree shall first be recorded in the register of the governor's office; if a mine should be placed in production before this formality is complied with, it shall be considered as a case of contraband.

Art. 10. The Ministers of the Interior and of the Treasury are charged with the execution of the present decree, which becomes effective from this date.

Given in Quito, the 24th day of January, 1920.

(Sgd.)

A. BAQUERIZO M.

FRENCH GUIANA.

No petroleum laws have been obtained.

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577

PARAGUAY.

REPORT OF CONSUL.

No copies of recent mining laws of Paraguay are available. It is believed that this Republic has no laws governing the exploitation of petroleum.

The American Consul on October 23, 1919, made the following observations:

According to the mining law of Paraguay, known as Law No. 93, which was passed on September 1, 1914, during Ex-President Schaerer's administration, the Government becomes the owner of all mines that may be opened in the country, except those of lime, rock, and other materials required for construction purposes. Concessions are granted by the Government to private parties for the exploitation of mining projects. The law requires the payment of a tax of \$.20 Argentine gold per hectarea (one acre equals about 4/10 of a hectarea) and 5 per cent of the gross proceeds.

This law being rather drastic in the matter of the time limit fixed for exploitations, etc., Ex-President Schaerer, the leading enthusiast on mining developments in Paraguay, thinks that the Paraguayan Congress would grant more liberal terms in concessions for petroleum than is provided for in the general mining law.

The Consul on January 30, 1920, submitted as a resume of the Paraguayan mining law the following:

The Act approved by the Paraguayan Congress on August 24, 1914, "Ley No. 93 De Minas," establishes the rules which govern the granting of concessions for mineral rights in Paraguay. So far no mining operations of any kind have been undertaken since the law went into effect and there are no apparent prospects.

The law provides that any concessionaire to whom a concession may be granted must, within five months from date of concession, make an excavation on the property at least ten meters in extent for the purpose of making the necessary tests, provide for surveys, fix the boundaries of the property covered by the concession, and register the title in the official books of the Ministerio de Interior, in order to establish his legal rights to the grant.

No restrictions, either legislative or administrative, according to the law, are placed on aliens and not on citizens of Paraguay in granting mining rights or concessions, in operating mineral properties or distributing mineral products, or on the sale of mining rights and properties.

The law provides that the state shall be the titular owner of all mineral rights in Paraguay, except those of lime, rock and other materials required for building purposes, and that private parties or concerns may acquire rights to mineral properties through concessions, or permits, granted by the Government. No concessionaire may acquire rights to more than five holdings within the same region; except in the case of iron, coal, or other combustibles for which rights for ten holdings may be acquired.

No important concessions of any character have been granted by the Government of a monopolistic character, and it is hardly probable that any successful developments may be expected under the small concessions that have already been granted, for the reason that the concessions were obtained for the purpose of selling the rights rather than to develop, or exploit, the property.

The law requires the payment of a Government tax of 20 cents Argentine gold per hectarea on all mineral lands for which concession rights are granted and five per cent of the gross proceeds of the mines.

PERU.

CONTENTS.

	Page.
Mining code	579
On mining property	579
Prospecting and exploring	580
Unit of measure—extension and form of mining concessions	581
Mining taxes	581
Mining administration and jurisdiction	582
Persons capable of acquiring mining property	584
Proceedings to be observed in mining denouncements	584
Relations between the concessionary of a mine and the owner of soil	590
Rights of ways	590
Mining companies	590
Mortgages and other contracts	591
Technical functionaires	591
Expropriation and indemnification	592
Tax on minerals	592
Law on petroleum	593
Tax on petroleum	593
Addition to law of tax on petroleum	594
Exportation tax	595
Exportation of petroleum—Conditions	595
New law proposed	595
Petroleum bill	596

MINING CODE, JULY 6, 1900.

CHAPTER I.

ON MINING PROPERTY.

Art. 1. The following are the object of mining property with the extent determined by the present law:

First. Deposits of mineral or fossilized substances which are susceptible of being industrially utilized, except those specified in the following article.

* * * * *

Third. Water, whenever it is necessary for motive power or any other purpose in mines and reduction works. * * *

Art. 4. The ownership of mines is separate and distinct from that of the land, or superficial rural property, and the ownership, possession and use of them are transferable according to common law and to the special regulations of the present Code.

Art. 5. Mining property legally acquired is irrevocable and as perpetual as common property and the only reason for its cancelment is the nonpayment of the tax mentioned in article 28 of the present law.

Art. 6. Concessions of mining property can only be made by the competent authority and in the form determined by the present code.

Art. 7. The ownership of legally acquired mines embraces the right of working them and the free disposal of all substances, which are the object of this kind of ownership contained within the vertical plans drawn on the sides of the perimeter of the conceded area.

Art. 8. Claims are not susceptible of material division, but mines having two or more claims may be, by unanimous agreement of the parties concerned, and subjecting themselves to the forms and measures established in the present Code.

Art. 9. The Superior Mining Council shall decide, subject to the Government's approval, on doubtful cases relating to the nature of the substance in discussion so as to settle whether mining property may be constituted or not.

Art. 10. All contracts relating to mining property and its products are regulated by common law; but they cannot be cancelled for having made acquisition of property at a lower price than half or less of the real price¹ neither shall there be in respect of them a plea of "restitutio in integrum" nor the right of parents and other persons substituting themselves in the contract on the same standing as the first acquirer.

CHAPTER II.

PROSPECTING AND EXPLORATION.

Art. 11. Any person or company may devote themselves freely to mining prospecting in uncultivated and unfenced lands, whether they are owned or not. The prospector is obliged to indemnify the owner, when the land is of private possession and damage may have befallen.

Art. 12. The owner's consent is indispensable for prospecting mines in cultivated and fenced grounds.

In case the said owner denies the permission, the local mining authority shall grant license, but collecting beforehand an indemnification for the use of the occupied ground, and a deposit for damages that may befall, all this on a just valuation.

Art. 13. No authority can grant license for prospecting in houses, orchards and gardens.

Art. 14. In no case can prospectations be made within towns, villages and cemeteries, or near public roads, canals and railways within a distance of fifty meters, except with license of the political authority; nor within the same distance from isolated buildings, except in those cases where permission has been given by the owner of the building or in his default by the deputation, the report of an expert being previously obtained.

Neither is prospecting allowed within a radius of one thousand meters from all forts and barracks except with the permission of the War Department.

Art. 15. Persons or companies intending to execute prospectations, requiring a considerable space of time may apply for one or more land concessions, none less than the number of claims fixed in Article 20 nor larger than its decuple.

Art. 16. These transitory concessions shall only be granted for one year and can be extended for a year more but shall lapse effectually at the end of that term, not being grantable again to anybody in the same place, before the expiration of five years.

¹According to common law if a thing is sold at two or less than two its real value being for instance four, the vendor is entitled to request within a given time, the nullity of the sale.

Art. 17. Concessions referring to exploration, can, in any case, only be granted in respect of disoccupied grounds; and on condition that mining concessions or pending petitions do not exist and ever have existed within their area or within five thousand meters minimum distance.

CHAPTER III.

UNIT OF MEASURE—EXTENSION AND FORM OF MINING CONCESSIONS.

Art. 18. The claim or unit of measure for mining concessions, except in beds mentioned in the following article, is a prismoidal solid of rectangular base with an extension of two hectares, having one side of two hundred meters and the other of one hundred, measured horizontally in any direction which the petitioner may point out and of indefinite depth in the vertical direction.

Art. 19. In placers, coal and petroleum deposits, and analogous ones of gold, platinum, tin, etc., claims shall have a square base with sides two hundred meters long.

Art. 20. The mining concession applied for by the denouncer, may embrace any number of claims up to sixty.

Art. 21. Claims forming together a single concession must be grouped without interruption and form a rectangle whose sides must be in a proportion not exceeding ten to one.

Art. 22. When an unoccupied space, whose form and extension may not allow a claim to be constituted, remains between two or more concessions, this excess shall be granted to the first, amongst the owners of the contiguous mines, who applies for it.

Art. 23. If any other person denounces it, the owners of the adjacent mines shall be preferred for the concession, provided they apply for it in the term of thirty days, to be counted from the date of the notification to them of the judicial registration of the petition.

Art. 24. The spaces referred to shall never be reputed smaller than a claim for the effects of the concession and payment of tax.

CHAPTER IV.

MINING TAXES.

Art. 25. All mining concessions shall pay an annual tax of thirty soles for every claim included within their perimeter.

Art. 26. Payment shall be made in two equal parts every six months, the first ending on 30th June and the second on 31st December. Payment of the tax shall become due from the day on which possession is taken; all fractions of six months being considered as a whole half year.

Receipts for payments shall be given in duplicate if so required by the interested party.

Art. 27. Provisional concessions for the purpose of investigation shall pay a tax of one sol per hectare. The same amount shall be paid in case of proration.

Art. 28. Any mine owner omitting payment of the six monthly tax may pay it during the following six months with a surcharge of fifty per cent.

He may also pay it with the same surcharge during the subsequent six months until one month after the official date of the publication of the Register of Mines in which it shall then appear able to be denounced, provided he pays the tax owed during the second six months with a surcharge of one hundred

per cent, and that of the third six months with or without the first surcharge according to the date of said payment.

If after said last term no payment has been made then the mine becomes able to be denounced, but while no petition for it is made, the owner is allowed to recuperate it, during the rest of the last six months, provided he effects the payment of the owed taxes with one hundred per cent of surcharge.

Art. 29. For mines acquired by substitution the payment of tax begins from the moment of the acceptance of the application by the respective deputation.

Art. 30. All parties contending on the property of a mine are bound to pay the tax during the lawsuit, without right to any ulterior reclamation.

Any one omitting a six monthly payment and not effecting it in the following six months with the surcharge mentioned in article 28 shall lose all right of being heard in the trial, it being considered as abandoned by him. The abandonment shall be declared as soon as the nonpayment is recorded.

Art. 31. The funds proceeding from the tax established in articles 25, 27, 28, 30 and all others to which the present Code refers, shall be applied:

First. To cover the budget of the Civil and Mining Engineers Special School, of Lima.

Second. To the maintenance of a special engineering body, of the School for mining assistants and overseers and of the Superior Mining Council.

Third. To any purpose tending to the development of mining industry.

The management of the said funds corresponds to the Development Department.

CHAPTER V.

MINING ADMINISTRATION AND JURISDICTION.

Art. 32. The administrative and economical mining control corresponds to the Executive Power represented by the respective department, to the Superior Mining Council, to the territorial Deputations and to the functionaries or authorities who may represent them.

Art. 33. The Superior Mining Council shall hold its meetings in the capital of the Republic and is composed of seven members; three, by virtue of office and four titular ones. Members by virtue of office are, the Minister of Development; the Under Secretary of Development and the Director of the School of Engineers; and the titular ones two miners, a mining engineer and a lawyer or judge, all appointed by the Government and proposed in lists of three, respectively, by the National Mining Society, the School of Engineers and the Court of Appeal of the judicial district of Lima. The Minister of Development is the President of the Council by virtue of his office.

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Art. 38. There shall be territorial deputations in all mining districts, where the Superior Mining Council believes it convenient to establish them. The same Council shall also design the deputation's site and the limits of the respective district.

In places where it is not possible to establish a deputation, the Government shall appoint, proposed by the Superior Council, a Delegate and a Substitute who shall discharge the said Deputation's functions.

In places where neither Deputation nor Delegation exists, their attributions shall be discharged by the judge of the lower court of the Province or by the acting judge as a substitute to him according to the law. If several judges exist, the jurisdiction corresponds to the junior in the branch of civil law.

Art. 39. Mining Deputations shall be composed of two Deputies and two substitutes who can be foreigners and may be reelected indefinitely. Half of

the Deputation shall be renewed each year. They shall be appointed by the Government and shall be proposed in lists of three by the Superior Mining Council.

Delegates shall be renewed every two years; and may also be foreigners and be reelected indefinitely.

Art. 40. Deputations shall have a secretary, appointed in the form prescribed in the present law. In case of absence or impediment he shall be substituted in the actuations by two witnesses.

Art. 41. In case of absence or impediment of the acting Deputies or Substitutes they shall be substituted by others proposed in the respective lists, according to the order they may occupy; in default of these by the previous holders of those positions and in the last case by the judge of the lower court of claims or by the assistant judge who may replace him.

Art. 42. The following are the attributions of the Mining Deputations:

First. To decree and decide on everything respecting concessions, possession and measurements of mines within the territory of their jurisdiction, to attend to the formation and registration of the titles of the mining concession; to superintend mining labours as far as it should be necessary so as to foresee, prevent and remedy accidents and to protect the life and security of the workmen.

Second. To resolve in a lower court with the character of privative judges, litigations which may be promoted with respect to denouncements, concessions, measurements and possessions, introduction in strange claims, expropriations, attendances, boundaries, and all other matters that have reference to mines.

Third. To decide questions relating to wages between employers and workmen, in which cases Justice of the Peace may intervene, whenever the distance to the seat of the Deputations exceeds twenty kilometers and the amount of the business is not greater than two hundred soles.

Art. 43. Attributions of the Deputations are also the superior police of mines and all mining establishments within their respective territories so as to be able to attend to the security of persons.

Art. 44. Deputations have the duty of transmitting to the Government all data respecting mining industry in the territory of their jurisdiction, when so requested.

Art. 45. A Deputy's attendance suffices for the discharges of the functions entrusted to the Deputation; but both will intervene if at the time of deciding on some matter any of the concerned parties so require it.

In case of disagreement, the first substitute shall act as arbitrator; in his absence, the second, and in the latter's default, the persons mentioned in Art. 41.

Art. 46. Whenever a file of papers bearing on a case is submitted to the Government, for revision of any business resolved by the Deputation in the attribution of its administrative functions, the affair being esteemed in this character, the said file of papers shall only be remitted three days after the last notification. Within this term any of the parties concerned may allege that the affair is a litigious one and may ask for its remittance to the Superior Court of Justice.

Said recourse having been admitted, the Deputation shall send the file of papers, previous the summons, to the Superior Court of Justice. The Court shall resolve without any more proceedings than the attorney's report. There shall be appeal of nullity with respect to its sentence, according to the regulations of common law.

Art. 47. Besides those already mentioned in other articles the National Superior Mining Council has the following attributions:

1st. To formulate regulations and tariffs respecting the control and administration of the Mining Department and the best application of the present law, all of which shall be submitted to the Supreme Government for approval.

2nd. To absolve all consultations which the Minister of the respective Department may direct, on anything concerning the approbation of titles of mining concessions in doubtful or contradictory cases.

3rd. To propose to the Supreme Government by means of lists the expert whose duty it is to assist the Deputation in facultative affairs.

4th. To propose to the Supreme Government the adoption of measures judged convenient for the promoting of mining industry and the reforms believed to be necessary in mining laws and regulations.

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Art. 49. In order that a meeting may be held the assistance of five members of the Council is required; and their decisions shall be adopted by plurality of votes.

CHAPTER VI.

PERSONS CAPABLE OF ACQUIRING MINING PROPERTY.

Art. 50. Any native born Peruvian or foreigner capable of owning property in the Republic, may acquire mines in the form established in the present Code, except under the conditions mentioned in the next articles.

Art. 51. The following are not to acquire mining property by means of petition:

1st. The Minister of Development, the Under-secretary of the same Department, and the employees of the Mining Section whilst in discharge of their duties.

2nd. Prefects, subprefects and other political functionaries in the territory of their authority.

Art. 52. Neither can the following acquire mining property by petition or contract:

1st. Secretaries and clerks of deputations or mining delegations in their mining district; and

2nd. Engineers, mining experts or mining surveyors, in districts where they discharge their official functions.

Art. 53rd. Neither can employees and mining workers acquire mining property by means of denouncement unless it be for their employers; except in places located at more than ten kilometres distance from the nearest point to the latter's property.

Art. 54. The wives, and sons under age, of functionaries and employees mentioned in the three former articles are in the same condition as themselves.

Art. 55. Prohibitions inclosed in former articles do not refer to mines acquired before discharging official functions or employments, nor to those acquired by inheritance.

Art. 56. Deputies in substitution and mining delegates may only denounce mines before the nearest deputation, obliging themselves to observe all the proceedings set down in the present Code.

CHAPTER VII.

PROCEEDINGS TO BE OBSERVED IN MINING DENOUNCEMENTS.

Art. 57. The petitioner or denouncer of a ground, vein, or mine shall supply by writing to the Deputation mentioning his name, nationality and abode, and with the greatest precision the location of the mine denounced, so that it

may be recognized with certainty at any moment, adding the name he may wish to give it, the provisional number of claims whose adjudication he desires and the name of neighbors or nearest contiguous mine owners. He will pay the sum of five soles as rights of denouncement at the presentation of his petition.

Art. 58. As soon as a writ of denouncement is presented, the Secretary or deputy shall place in the margin of the said Writ a note stating in letters, the day and hour of the presentation; the number of the entry in the register of denouncements corresponding to it; the former number of entry; the name of the mine to which it refers, and that of the author of the denouncement.

He will enter, besides, in the said register the respective entry, containing: the denouncer's nationality and name; the location and particular signs of the denounced object; the day and hour, of the presentation; the denouncement number and the name of the mine or denounced object.

Said entry shall be signed by the deputy, secretary and the petitioner or denouncer himself, unless he cannot write; granting to the latter at said moment a certificate of it and noting in the entry the amount paid for registering rights.

Art. 59. Entries of the Register of Denouncements shall be written and numbered consecutively one after each other, with blank spaces or erasures, under penalty of a fine to be imposed by the corresponding superior authority; without detriment of criminal responsibility.

Art. 60. The Deputy shall decree on the recourse of denunciation within three days, and the certificate of registration of the denunciation being issued, he shall cause the respective advertisements and placards to be published.

Art. 61. The admission of denouncements, (payment being previously made of the quantity mentioned in article 57) gives the denouncer the right of occupying provisionally, (without detriment of a third's preferential right), the solicited claims, from the date of their inscription in the register to that of the possession.

Art. 62. No denouncement respecting the same ground, water, slags, mines or deposits will be admitted whilst no resolution has been taken respecting the first; not even for the purpose of taking it into consideration supposing the first one may be rejected.

Art. 63. The former prohibition includes the denouncer and his partners, and neither of these may present successive denouncements whilst the first may be in course of procedure.

Art 64. Within the thirty days following the last notification of the official registration of the petition, the publication of advertisements shall be made with transcript of the content of entry:

1st. During a consecutive fortnight by means of placards to be fixed on the Deputation's office door, and in the most frequented spot of the nearest village to the location of the denounced object.

2nd. Thrice in the newspaper of the residence of the Deputation and in its default in that of the nearest town of the respective Department.

It shall be further published three consecutive weekly times, for the term of ninety days, in the newspaper of the capital of the Republic, designed for mining advertisement by the Superior Council.

Art. 65. In the interval between the date of denouncement and that of possession, any oppositions which may be presented shall be heard by the deputation, as well as any that may be formulated during the act of giving the said possession. Opposition must be founded on some of the following documents:

1st. On the last receipt of payment of the tax if the opponent allege any right to the mine, or if he were owner of a neighboring mine, whose quadrature he believes to be invaded.

2nd. On the writ of possession, if the titles be in course of procedure, in order to be approved by the Development Department.

3rd. On the entry in the register book of denouncement, if the opponent pretends to have any right of preference with respect to the concession, caused by a former denouncement, still pending.

4th. On the corresponding certificate and receipt, if the opponent pretends to have any right to the denounced mine, founded on the fact of his possessing some exploring concession; in this case, he must present a plan showing the situation and extension of the ground to which the concession refers.

5th. On the tax receipt, which may allow the miner to maintain his right if the mine should have become liable to be denounced by reason of nonpayment.

If it were necessary to receive the opposition in a court of justice, by reason of the affair being litigious, the proceedings will be those mentioned in article 184.

Art. 66. Possession shall be applied for after the expiration of three months from the date of the judicial registration of the denunciation and before the end of the fifth month.

Art. 67. In case prorogation of the term, mentioned in the former article is applied for, it may be conceded, provided it does not exceed three months, and with the petitioner's obligation of paying for each month of conceded prorogation, ten soles per claim.

Art. 68. The terms mentioned in the two former articles having expired, without the possession having been applied for, the denouncement shall be considered as abandoned, and possession will not be conceded to the denouncer, under penalty of a fine to the Deputy, of from fifty to two hundred soles, according to the Superior Mining Council's opinion, without detriment to the disapprobation of the titles. The same penalty shall be applied in the case of the possession being given before the expiration of the three months mentioned in article 66 or opportune possession not being given through the Deputy's or expert's fault.

Art. 69. The concerned party may ask, in the recourse of possession, that the number of claims he firstly applied for, be reduced. He may also ask that the same number be increased provided no third party be prejudiced.

Art. 70. The Secretary shall, on receiving the application of possession, note in the Register of Denouncements, on the margin of the corresponding entry, the day of the presentation, and shall give the interested party a receipt if he requires it.

Art. 71. In order to be able to proceed with the possession and measurement the Deputation shall first convoke the owners and holders, of neighboring mines, whose rights may be affected by the new concession. This notification shall be directed with six days anticipation to the concerned or his proxy, or to the manager or clerk in charge of the mine; affixing besides at the same time, placards, on the door of the Deputation's office.

Art. 72. The measurements of concessions shall be effected by experts according to the order established in respect to those functionaries in the present Code and respective regulations.

Art. 73. The vertexes of the squares or rectangles corresponding to a concession, shall be marked with solidly constructed landmarks, which by their form or by any other mark, may be distinguished from the contiguous ones, and which

are to be connected with fixed points and with the guide posts of neighboring concessions.

Art. 74. Guide posts are unmovable; and the miner shall preserve them in good condition, abstaining from changing their position, under penalty of being fined one hundred soles, without detriment of criminal responsibility if he has proceeded maliciously.

Art. 75. When by accident or fortuitous circumstance any guide post should be destroyed or felled, the miner must make the Deputation acquainted with the fact, so that it may authorize its replacement, with citation of the adjacent owners.

Art. 76. The expert shall determine the effective existence of grantable substances in the denounced site, or in their default the probability of finding them, judging by the geological formation of the land, or by its connection with adjacent mineral deposits; the said requisite being indispensable in order to constitute mining property.

Art. 77. If any opposition be presented in the proceeding of possession, the acting Deputy shall resolve it on the spot; except in the case in which any of the parties concerned finding fault with the operation of the expert, demand the concurrence of another expert. If the two experts disagree, a third arbitrator shall be final; all which must be done in the shortest possible time, not exceeding twenty days, unless the Deputation concedes prorogation in just cases. The appointment of experts corresponds to the said Deputation.

Art. 78. A record of the proceedings of possession shall be drawn up in the file of papers, and shall be signed by the Deputy, the expert, the interested party, the secretary and the representatives of neighboring mines who may have assisted.

Art. 79. A complete copy of the said record shall be transcribed in the book of "Register of Titles." Said copy shall be authorized by one of the Deputies and the Secretary; at the same time a copy of the plan shall be deposited in the archives of the Deputation.

Art. 80. A certified copy of everything that has taken place shall be given to the interested party together with a duplicate of the corresponding plan, signed by the expert. The original file of papers shall be remitted by the Deputation to the Mining Department for its approbation and the register of the mine in the tax-list; the said file of papers being accompanied by a bill of the expenses which may have been occasioned by the proceedings of possession, signed by the Deputy and the interested party.

Art. 81. The proceedings prescribed in the two former articles, shall be executed by the Deputation without fail within thirty days, to be counted from the date of possession, under responsibility and penalty of fine.

Art. 82. In order to renounce, after having obtained the definitive title, to one or two of the claims that constitute a concession, a new demarcation of the remainder on the spot, and the formation of the record is indispensable; all this being done whilst observing the requisities established for measurements of mines in articles 72 and following ones of the present law.

When effecting the division of a mine composed of several claims, among two or more parties concerned, the same process respecting the claims corresponding to each one shall be followed. In case a miner may wish to change the bearings of the sides of his claims this process shall also be followed, provided no third party be prejudiced.

Art. 83. The Mining Department shall examine the titles remitted by Deputations; shall approve them immediately, provided they be arranged according to law and no opposition be pending; and shall communicate their approbation to the respective Deputation.

Art. 84. In case of opposition and the affair not being litigious, the Government shall approve, or disapprove, the titles after consulting with the Superior Mining Council.

Art. 85. The Department of Development shall file the titles, shall publish a list of their existence in the newspaper dedicated to that effect and shall cause the mines to be registered in the general tax-list of Mines.

Art. 86. Once registered in the tax list, the ownership of the mine can only be disputed before common law. The pacific possession obtained according to this law, and not interrupted during five years, can not be disputed in a trial.

Art. 87. Complaint of the proceedings of the Deputation may be made to the Department of Development, which shall resolve the case, after consulting with the Superior Mining Council. This right may only be exercised in the term of a fortnight, from the date of the notification of the writ causing the complaint; the delay caused by distance being excepted.

Art. 88. The error or omission in the proceedings of possession, with respect to some details of the object of it, does not alter the right of property acquired in formulating the denouncement, and may be corrected at any time, without prejudice of any third party, by the Deputation; which shall proceed in accordance with the regulations of the case.

The title being perfected, the said Deputation shall deliver to the interested party a certified copy of the rectification, and a modified plan, if it exists.

Art. 89. No denouncement founded on the defect which may be adduced to a title of concession shall be admitted, not even for bearing it in mind and taking it into account, in case the said titles be declared imperfect and null.

Art. 90. Whilst a mine does not figure in the general Mining tax-list, in the condition of liability to be denounced, no denouncement may be admitted with respect to it, not even in case of bearing it in mind for its opportunity.

Art. 91. Denouncement recourses, presented in contravention to the dispositions in the former articles, shall be rejected openly, and shall not have any effect whatever.

Art. 92. Applications referring to provisional concessions shall be treated in every respect in the same way as definitive concessions.

Art. 93. For the acquisition of mines appearing as liable to be denounced in the general Mining tax-list, the presentation of an appeal to the corresponding Deputation, suffices; the petitioner substituting himself in the rights of the former owner and paying twenty soles per claim. For the second substitution, provided it be effected in the first six months in which it appears open to be denounced, the petitioner shall pay without fine, the contributions owed by the former owner.

Art. 94. This application shall be published in summary in a newspaper of the locality, and in placards in its default, and at the same time in the nearest town of the Department for a fortnight; and on its expiration the Deputation shall transmit it with its respective report to the Supreme Government. The Deputation shall take care to express clearly in the said report if the solicited mine remains in the condition of open to be denounced. In the latter case the branch Department shall cause the mine to be inscribed under the name of the petitioner. The former name of the mine shall be preserved in the inscription.

The grantee of the mine shall solicit a legalized copy of the primitive titles and of the decisions recognizing him as legitimate successor of the former owner; all which it is understood to be without prejudice of rights acquired by a third party, after the abandonment effected by the former proprietor.

Art. 95. If no certified title copy of the newly adjudicated mine exist in the Department of Development, the new owner is obliged to solicit from the respective authority the measurement and possession.

CHAPTER VIII.

RELATIONS BETWEEN THE CONCESSIONARY OF A MINE AND THE OWNER OF THE SOIL.

Art. 96. The concessionary acquires effectually the ownership of the surface corresponding to the concession, after taking possession of claims which may be adjudicated in uncultivated and untitled grounds, they being public or of a community; but he shall lose the said ownership after abandoning the mine.

Art. 97. When adjudicated claims be situated in cultivated or fenced lands belonging to the State, or of private property, or Country Councils and communities, the owner of the soil is obliged to cede to the concessionary, with previous indemnification, the necessary area for the working of the mine; be it for the working of the mine proper, its tunnels and shafts, or for roads, bridges and railways, canals, aqueducts, basins, machine plants and all kinds of external constructions destined for working, workshops and installations for the mechanical preparation of ores and their metallurgical treatment. The concessionary has the same right, with previous indemnification, with respect to indispensable grounds, outside the perimeter of the concession for the same objects.

Art. 98. Grounds occupied by buildings are exempted from what is stipulated in the two former articles; they may only be acquired by the concessionary of the mine with the owner's consent.

Art. 99. When the persons concerned do not agree with respect to the cession of the required ground, the Deputation shall proceed with the expropriation, observing the process mentioned in Chapter 17.

Art. 100. The expenses occasioned by expropriation, to which the two former articles refer, are for account of the one who may apply for it, excepting those originated by the groundless opposition of the owner of the soil which shall be at the latter's expense, and their amount shall be appraised by the Deputation.

Art. 101. After two consecutive years of the abandonment of a mine, counted from the date of the first tax-list in which it appears as able to be denounced, the owner of the area from which the expropriated part was taken according to Art. 97, may recuperate it without expense, upon applying to the Deputation. The recuperation shall comprise the buildings and constructions which may stand there, provided they be in the condition of open for denouncement as specified in Art. 138.

If the said buildings and constructions are not in that condition, the person recuperating the soil may acquire them, by paying their value at just appraisalment.

Art. 102. When the mine be denounced within the two years mentioned in the former article, its possession shall comprise the ground acquired by expropriation, without expense for its denouncer. The same thing shall happen even after the said two years, if till the date of denouncement the former owner of the soil have (has) not exposed his right of recuperation.

The new denouncer, acquires free of expense the buildings or constructions existing on the said ground, provided they are in condition of able to be denounced.

If the buildings and constructions are not in that condition, the denouncer may acquire them, by paying their value in just appraisalment.

Art. 103. Every concessionary is under the obligation to indemnify the owner of the soil for the damages caused by the working labors, underground or superficial, previous appraisalment being necessary.

If the damages proceed from several mines, each concessionary shall be responsible in proportion, for the part imputable to him in the said damages.

Art. 104. The possession of a mine does not give the right of opposing oneself to the execution, within the limits of the concession, of works of recognized public utility, such as roads, railways, canals and others of the same kind which authorize expropriation in accordance with common laws.

Art. 105. The concessionary of a mine has the right of using for its working all building materials, as well as those not considered open to be denounced, that he finds in the course of the works.

Art. 106. The order which shall be observed in works which the owner of the soil executes for the purpose of working the mineral substances of his estate, according to Art. 2 of the present law, in relation with the labors of the mine, shall be fixed unanimously; and in case of disagreement, by arbitrators appointed by both parties, if these also disagree a third one shall be appointed by the Deputation. The Government may be asked to revise the arbitral sentence, and shall resolve the case, after consulting with the Superior Mining Council.

CHAPTER IX.

RELATIONS BETWEEN MINE OWNERS.

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CHAPTER X.

GENERAL ADITS FOR EXPLOITATION, TRANSPORT, DRAINAGE AND VENTILATION.

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CHAPTER XI.

CONCESSIONS FOR REDUCTION WORKS—LAND FOR CONSTRUCTION AND WATER.

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CHAPTER XII.

RIGHTS OF WAYS.

Art. 152. All rights of ways shall only be granted in the measure necessary for their purpose.

Art. 153. Rights of way of passage, aqueducts, and others necessary for working, shall be gratuitously granted on public grounds.

If the grounds be of private proprietorship, the value of the grounds occupied shall be indemnified, as well as the proved damages that right of way may have occasioned, proceeding according to the regulations of chapter 17.

Art. 154. The miner has the right of availing himself gratuitously of the wood of forests adjacent to his claims, as well as of natural pastures, for the needs of the working and the maintenance of animals employed in it, provided those forests and pastures be of public property; but if they be of private ownership, their proprietor can demand previous payment of their rightful value, which, in case of disagreement between the parties, shall be fixed by the Deputation.

Art. 155. The passage of persons and animals for the service of miners, through unfenced rural properties, not damaging them, can not be refused by the owners nor subjected to toll.

CHAPTER XIII.

MINING COMPANIES.

Art. 156. Mining companies whether they may devote themselves to exploration or prospection, to the working of mines, or to the treatment of minerals, remain subjected to civil laws with the restrictions contained in the present

Code and excepting the stipulations of the social contract, which are of pre-eminent observance.

Anonymous companies and those in silent partnership shall be regulated, with the same restrictions, by the dispositions of the Commercial Code relating to that kind of societies.

Art. 157. In all mining companies partners are obliged to contribute toward the working expenses and the tax-payment, in proportion to their share in the company. The joint owners of a common mine have the same obligation of effecting the latter payment and that of the conservation expenses.

Art. 158. If a partner fails to pay the proportional part corresponding to him, there is the right of applying to the judge of the society's domicile, who shall notify the resisting partner for the payment, giving him a term of fifteen to thirty days. When no society but a corporation exists, one shall apply to the judge of the site of the mine or of the domicile of the defendant.

Art. 159. The partner notified for payment, can oppose it within the fortnight posterior to the summons, setting forth what he considers convenient to his right.

Art. 160. The opposition is only in conformity with the law when founded on a legitimate reason, an opening for evidence being granted if it were necessary within the peremptory term of ten days.

Art. 161. The opposition having been declared unfounded, or in case of non-existence, the sale by public auction of the resisting partner's property shall be proceeded with, the amount ordered to be paid serving as a basis.

Art. 162. The resisting partner can pay what he owes till on the eve of the sale by public auction, being obliged to pay a fine of fifty per cent if payment were effected after thirty days from the date of the summons with claim.

Art. 163. Mining companies are not dissolved by reason of the death of one of the partners; but his heirs have the right of alienating his share, provided they proceed by common agreement.

CHAPTER XIV.

MORTGAGE AND OTHER CONTRACTS.

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Art. 171. Leasing contracts on mining properties are subjected to common laws on order of payment; but the leaser only can sublet the whole or part of the thing, with the owner's express permission.

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CHAPTER XV.

TECHNICAL FUNCTIONARIES.

Art. 173. The Supreme Government can appoint for every deputation one or more mining experts, which shall assist the local branch authorities in all acts requiring professional knowledge and shall intervene in the proceedings of experts determined by the present law.

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CHAPTER XVI.

MINING LAWSUITS.

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CHAPTER XVII.

EXPROPRIATION AND INDEMNIFICATION.

Art. 205. When in case of disagreement between the parties, expropriation be proceeded with, in the cases expressly established in the presented law, the Deputation shall receive the opposition for evidence during ten peremptory days and without any more delay the evidence can still be offered in ten subsequent days. At the expiration of the latter and considering what is alleged and proved by the parties, and the enlightenments that can officially be ordered, its resolutions shall be issued within three days.

Art. 206. The resolution of the Deputation is appealable, the effects and interlocutory resolutions are suspended meanwhile, and the files of papers shall be sent to the Court of Appeal.

Art. 207. The resolution for expropriation having been agreed upon or being definitive, the appraisement of the ground, the object of it, shall be proceeded with, by experts appointed by the parties concerned and an umpire in case of disagreement, appointed by the Deputation.

Art. 208. The experts shall present their appraisements within eight days of their appointment, except that in case of special circumstances the Deputation prorogates this term.

Art. 209. In case the party concerned fails to appoint the expert or the latter not presenting his report, so as to consider it as arranged with the other party's expert, or with his operation, an intimation to the concerned suffices, and that the term that the Deputation designs to him, pass away.

Art. 210. The resolution of the Deputation on the value of the expropriated object is appealable and the effects and interlocutory resolutions are suspended meanwhile and the files of papers shall be sent to the Court of Appeal.

Art. 211. Appeal of nullity cannot be interposed with respect to decisions of the Court of Appeal if the amount in dispute does not exceed one thousand soles.

Art. 212. In case proof be given that the owner of the soil is not known, the expert whom the latter should appoint shall be designated by the Deputation; the price shall be deposited for five years, in the General Treasury, to the order of the Department of Development, announcements being published for thirty days in a newspaper of the locality or of the nearest town, if it exists, and besides in that of mining announcements of the capital of the Republic.

CHAPTER XVIII.

TRANSITORY DISPOSITIONS.

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TAX ON MINERALS.

LAW NO. 2187.

Article 1. Mineral products and their derivatives shall be subject to the payment of export duties, according to the classification and in the amounts as set forth in this law.

* * * * *

PETROLEUM.

Article 7. Crude petroleum and the residue and products of its distillation shall pay an export duty of 1 shilling per metric ton gross weight.

Article 8. The producers and exporters of minerals will be obliged to declare the kind and contents of their products; and the government, on its part, may

In the custom houses or in the places of production, take samples and make the analyses that it may deem necessary.

For a false declaration there shall be a fine of four times the value of the corresponding duty as fixed by this law. It shall be considered as a false declaration when the discrepancy between the contents, as declared by the interested party and the analysis ordered by the government, exceeds 5% for copper bars; 10% for the gold and silver contained in same; 10% for the copper contents of mattes, and 15% for the gold and silver contents of same, and 10% for the silver contents of lead bars. In the cases of a false declaration the government has the right to take the mineral, paying the owner according to the value as declared by him.

Article 9. The exportation of all classes of amalgamates is prohibited.

Article 10. The duties shall be paid with drafts on New York at 90 days sight, or at the option of the exporter in its equivalent in drafts on London. The drafts with which the duties are paid are to be approved by the "Junta de Vigilancia" who will receive them directly from the custom houses, placing them for the present at the disposal of the Minister of Hacienda; the "Junta" will sell the drafts in case the government should need the proceeds in current money.

The "Junta de Vigilancia" may receive the duties in pounds sterling (gold) instead of drafts on New York or London when said duties do not amount to more than £40.

The Chamber of Commerce of Lima will fix weekly the value per ton of standard copper, and of the Troy ounce of silver, taking as its guide the price quoted by the "London Metal Exchange." This quotation will control for the week following.

Article 11. This law will remain in force until a definite law for the taxation of minerals may be enacted.

Passed by Congress November 13, 1915.

Signed by the President November 14, 1915.

(Signed) JOSE PARDO,
President.

(Signed) A. GARCIA y LASTRES,
Minister of Finance.

LAW ON PETROLEUM.

TAX ON PETROLEUM.

The following law has been promulgated, No. 2423.

The President of the Republic, and the National Congress of Peru have enacted the following law:

Art. 1. Crude petroleum, lubricating oils and heavy residue from distillation; benzine, gasoline, kerosene, and other light products from the distillation of crude petroleum, shall pay an exportation duty from the moment the quotation in the New York market, for a barrel of 42 gallons of crude petroleum at the wells of Pennsylvania, reaches the price of one dollar and twenty cents, or eight dollars and forty cents a ton of seven barrels.

Art. 2. The duty, starting from the fixed quotation in the preceding article, shall be ten cents a metric ton for the crude petroleum and heavy residues of its distillation, and fifteen cents for the light products obtained, such as benzine, gasoline and kerosene.

For every ten cent increase in the quotation of a barrel of crude petroleum in the New York market the duty shall increase six cents a metric ton for the

crude petroleum and heavy residues, and nine cents for the benzine, gasoline and kerosene and other light products.

It is estimated, for the purpose of duty, as light products all those whose grade, after distillation, may be superior to 38 degrees Beaume.

Art. 3. The Government reserves to itself the right to ascertain that the product which is exported as crude petroleum has not been advanced in value by manipulations or mixing with distilled products.

False declarations shall be punished by a fine equivalent to four times the value of the corresponding duties fixed by this law.

Art. 4. The duties shall be paid in dollars, in drafts at three days sight on New York, the drafts to be to the satisfaction of the Junta de Vigilancia, who shall receive them directly from the Custom Houses and place them at the disposition of the Minister of Finance. The Junta de Vigilancia shall take charge of the selling of the drafts in case the Government requires their value in current money.

The Chamber of Commerce of Lima shall fix weekly the value of a barrel of 42 gallons of crude petroleum on the wells of Pennsylvania, taking for their determination the market price quoted in the New York market.

Art. 5. The Executive Power is authorized, in case of an increase in price of crude petroleum, or of its derivatives destined for national consumption, to adopt as the standard for the collection of the duty, the price in Lima of fuel oil, taking as a base the equivalent of the actual price in Lima of two pounds five hundred thousandths (£2.5.00) for a ton, with that which is in force in Pennsylvania, or two dollars sixty cents per barrel.

Done in the Government House, Lima, the fourth day of August, 1917.

(Signed) JOSE PARDO,
President.

(Signed) BALDOMERO F. MALDONADO,
Minister of Finance.

ADDITION TO LAW OF TAX ON PETROLEUM.

LAW 2444

The President of the Republic: Whereas the Congress has enacted the following law:

The Congress of the Peruvian Republic has enacted the following law:

Sole article: An addition to law No. 2423, regarding tax on petroleum and its derivatives, will be made in the following form:

"The products of the petroleum deposits which are exploited in mountainous regions or in the mountains will be excepted from the taxation established in Law No. 2423, and they will be the object of a special law."

This will be communicated to the Executive Power in order that he may provide for compliance with it.

Given in the Salon of Sessions of the Congress, in Lima, this tenth day of the month of September of one thousand nine hundred and seventeen.

J. C. BERNALES, President of the Senate.

JUAN PARDO, Deputy-President.

F. R. LANATTA, Senator-Secretary.

LUIS A. CARRILLO, Deputy-Secretary.

To the President of the Republic.

EXPORTATION TAX.

Page 83, Article 7. Petroleum: Crude petroleum and the residues and products of its distillation will pay an exportation tax of 1 shilling per metric ton, gross weight.

Page 84. The residues and products of distillation to which the law refers are asphalt of petroleum, the heavy residue or, that is, the residue that remains after extracting the kerosene and lubricating oils; the light residues or petroleum from which the benzene has been removed, paraffine, vaseline, lubricating oils, kerosene, oil of turpentine, crude and rectified benzene, gasoline, and mineral essence. The weight of these products will be determined directly when they are in small quantities, or by measuring their volume in cubic meters, taking their graduation with the Baume areometer and making use of the table given as Exhibit No. 5.

Then follow various equivalents which will be useful in the custom houses, as used by producers of petroleum:

1 gallon=3.785 liters.

1 barrel=42 gallons, 158.97 liters, etc.

EXPORTATION OF PETROLEUM—CONDITIONS.

LIMA, FEBRUARY 2, 1920.

The following Decree has been issued:

Whereas it is the duty of those who represent the extractive industries to preferentially supply the home market;

And whereas articles of prime necessity should be supplied at normal prices to save the national consumer from the advance of prices in foreign markets;

And whereas crude petroleum and its derivatives are indispensable to the life of towns and to the existence of their industries;

And whereas the price of 25 soles per ton of crude oil and the relative prices for its derivatives meet the interests of industry;

Therefore, by virtue of the authorization contained in Law No. 1967:

It is Decreed:

1. Neither crude petroleum nor its derivatives may be exported until the requirements of the home market have been supplied.

2. When the price of crude oil at Peruvian consumption Ports is over 25 soles per metric ton, then the export duties shall be raised by an amount equal to the increase over the aforementioned price of 25 soles.

3. When the prices of petroleum derivatives relative to the price mentioned in the preceding Article, which prices shall be fixed by a separate Decree, advance at Peruvian Consumption Ports, then the export duties on such products shall be raised by an amount equal to the increase in their quotations.

The Lima Chamber of Commerce shall each week fix the current prices of petroleum and its derivatives at Peruvian Consumption Ports, following the list to be established by the Decree referred to in the foregoing article.

Let this be transmitted, filed and published.

Initialled by the President of the Republic.

SALOMON.

NEW LAW PROPOSED.

The American Consul at Callao-Lima, Peru, on March 16, 1921, informed the State Department that the Senate, just before the close of the extraordinary session of February, 1921, passed a petroleum bill. Before becoming a law, it must be passed by the House of Deputies.

PETROLEUM BILL.

The bill as passed by the Senate is as follows:

Art. 1. Deposits of petroleum and hydrocarbons, in whatever state discovered are national property inalienable and nontransferable. The executive may explore them or exploit them directly or through concessions in conformity with this law.

Art. 2. The concessions to which the foregoing article refers can in no case transfer the ownership of the deposits, but may concede them for the exploration or exploitations. In either case the extension of the area shall be determined by claims of 40,000 square meters each.

Art. 3. Exploration concessions shall be subject to the following conditions;

(a) The extension of the exploration lot conceded may contain up to 1,000 claims.

(b) The exploration terms may extend to 4 years maximum.

(c) Contributions per claim for exploration shall be S/4.00 on the coast; S/2.00 in the sierra and S/1.00 in the montana payable half-yearly in advance.

Art. 4. Applications for exploration concessions shall be presented accompanied by a certificate of the Caja de Depositos y Consignaciones, that the sum of S/5.00 has been deposited as guarantee in respect of each claim applied for.

Art. 5. Explorations shall be carried out in conformity with a working plan submitted by the concessionaire and approved by the Government. The concessionaire shall be under the obligation to keep the Minister of Fomento informed of progress and results of exploration.

Art. 6. The claims constituting a concession, whatever their number, shall be grouped so as to form a rectangle whose sides are to be in such proportions as not to exceed 10 to 1.

Art. 7. When exploration concessions are granted on the coast or in the region of navigable rivers, the rectangle shall be so disposed that its smaller side shall follow the line of the coast or the course of the river.

Art. 8. Exploration concessions shall confer on the concessionaire the right to products obtained, ceding and delivering to the Government on the exploration site a part of such utilities, i. e., 10 per cent on the coast and 5 per cent in the sierra and montana. They also confer the right to exploitation concessions of all or part of the zones explored, provided that application be made within six months of expiry of the concession.

Art. 9. The Government shall appoint an Engineer charged with following the course of the exploration work and seeing that same be carried out in accordance with the plan as approved by Art. 5.

Art. 10. The concessionaire may at any time during exploration work apply that he be adjudicated exploitation concessions within the boundary of the zone of which he has been granted an exploration concession.

Art. 11. On termination of exploration work the concessionaire shall present a map of the lots explored in accordance with specifications determined by the Government.

Art. 12. Exploration concessions shall lapse:

(a) Through expiration of the non-extendable term to which subsection (b) of Art. 12 refers;

(b) Through failure to pay exploration contributions during three consecutive months;

(c) Through complete paralization of exploration work on the coast for one year, in the sierra or montana for two years;

(d) On application of the concessionaire owing to his not having obtained favorable results from the exploration work undertaken in conformity with the Government approved plan.

Art. 13. The lapse of concessions shall be decreed administratively adjudicating to the exchequer the guarantee deposit, except in the case of subsection (d) of the foregoing article, in which case it will be returned to the concessionaire after deducting outstanding contributions.

EXPLOITATION CONCESSIONS.

Art. 14. Exploitation concessions shall be granted for an indefinite period, in one or more lots, explored or unexplored, up to 1,000 claims each, which shall be grouped in the same form as indicated by Arts. 6 and 7 of this law.

Art. 15. The concessionaire of an exploitation zone shall be obliged to pay two classes of duty—one on the superficial extension comprised by the concession, and the other on the production of the well or wells perforated within the limits of the lots. The contribution on the superficial extension shall be one pound per claim payable at the end of each half year, and the production duty shall consist of an aliquot part of the gross petroleum production extracted from the wells, the proportion to be determined according to the site and quality of the deposit and the conditions of its exploitation, but in no case shall it be less than 8% nor more than 12% of total weight in coastal concessions and from 5% to 7% in the sierra and montana.

Art. 16. A concessionaire who has not paid the tax on superficial extension for a half-year may defray it during succeeding half-years provided he pays it in course or within the period of three half-years in the following manner—during the second half-year paying that of the previous half year with a surcharge of 20% and that of the second half year without surcharge, during the third half year paying the amount corresponding to the first with a surcharge of 40%, that of the second plus 20% and of the third half year without surcharge.

Art. 17. Exploitation duties shall be handed to the Government as it may elect in money, in crude products or in net profits taking as their value the average selling price of each half year.

Art. 18. The delivery of products shall be made at precisely the point at which a concessionaire makes his shipment in the case of deposits on the coast or navigable rivers, or at the nearest railroad station in the case of those distant from waterways.

Art. 19. The concessionaire shall be obliged to commence within the term of 2 years starting from the granting of title to a concession, the exploitation works, and to obtain from the fifth year the minimum production stipulated in such title, upon which duty shall be levied, even though the product obtained be really less.

Art. 20. The concessionaire of a petroliferous lot may solicit at any time that its extent be reduced. The new title shall cancel the prior one.

Art. 21. The concessionaire shall be obliged to employ in exploitation work, the national element, in the technical and administrative personnel as well as in labour, in the proportion to be determined by the Government in each case.

Art. 22. He shall also be obliged to give preference at current rates according to his production, of crude petroleum and derivatives, to national demand, being allowed to export only the excess.

Art. 23. The Government shall supervise the exploitation of petroliferous concessions in order to be informed of the cost and quantity of production and

sale price of products destined for national consumption. The concessionaire shall be obliged to furnish the Government's nominees with all data and facilities required for the discharge of their commitment.

Art. 24. Exploitation concessions shall lapse:

(a) Through failure to pay contributions on superficial extension during three consecutive half years.

(b) Through failure to pay for one year the production tax.

(c) Through not having obtained during five consecutive years the minimum production provided for by the concession, and

(d) Through refusal on the part of the concessionaire to contribute to national consumption in the corresponding proportion.

Art. 25. Exploitation concessions having been granted, the part of the preceding exploration concessions not covered shall become free for disposition and the Government may grant new exploration rights or new exploitation contracts over the same.

Art. 26. Petroleum concessions of exploration or exploitation do not carry to the concessionaire rights over mineral substances foreign to the concession which may be contained in the perimeter conceded; such substances may only be exploited through means of a denouncement in conformity with the Mining Code.

Art. 27. The rights of exploitation and free disposition which according to Art. 7 of the Mining Code mine owners possess in respect of all conceivable substances contained within the limits of their concession, do not operate in regard to petroleum and hydrocarbons, it being obligatory to apply for and obtain a concession for their exploitation in conformity with this enactment.

Art. 28. Petroleum claims at present denounced which in future shall become denounceable, can not become the object of substitution of which Art. 93 of the Mining Code treats and may only be acquired in conformity with this law.

Art. 29. Under penalty of cancellation petroleum claims can not be transferred without permission of the Government. Questions which may arise over these can only be decided by the Republic's tribunals.

Art. 30. The petroleum industry is hereby declared a public utility; the expropriation of the superficial part of land necessary for the exploitation of deposits shall therefore proceed in accordance with legal enactments.

Art. 31. The Executive Power reserves in each petroliferous tract, according to its importance and location, two or more lots the exploration and exploitation of which shall only be conceded to national companies constituted with capital of the country. It may also reserve for direct exploitation by the State, the zone or zones which it may consider suitable.

Art. 32. Foreigners may neither acquire nor possess petroliferous claims within an extension of 50 kilometers from the frontiers, in accordance with the terms of Art. 39 of the Constitution.

Art. 33. Companies organized for the exploitation or exploration of petroliferous deposits shall be constituted in conformity with the Commercial Code and be considered as national companies with legal domicile in the Republic.

Art. 34. In regard to denouncements or applications pending at the promulgation of this law, the corresponding concessions to be granted shall be in conformity with this law.

Art. 35. Concessionaires of petroliferous deposits with titles granted before the coming in operation of this law may alter their concessions to be in conformity herewith, but in any case they will be subject to the payment of the contribution on superficial extension and that on production.

Art. 36. Concessionaires of exploitation deposits shall enjoy the privileges accorded to mine owners by the Mining Code and shall have the right to acquire

subject to existing legislation, right-of-way of transit and pipe line as found necessary. They may occupy within the limits of their claims the superficial extensions necessary for extraction works and for the establishment of storage and refineries of the products extracted and avail of surface and subsoil waters for the exploitation service. They may also establish docks, loading and unloading stations and subiluvial pipe lines with the approbation and authority of the Government.

Art. 37. Companies that construct pipe lines for the transport of their petroleum shall be obliged to transport the products of neighboring concessionaires who lack that facility, collecting for such service rates to be approved by the Government. Also those who possess refineries shall be obliged to treat the products of other producers provided that the capacities of such refineries is (are) superior to the output of their owners' exploitation.

Art. 38. Applications for concessions of exploration and exploitation shall be made to the Minister of Fomento and shall be granted subject to the terms of this enactment.

Art. 39. The Executive Power shall organize the office which is to deal with petroliferous concessions and shall arrange as to the procedure to be followed in the case of applications by holders of exploration concessions for exploitation contracts.

Art. 40. The Minister of Fomento will arrange that the Engineering Corps of Mines and Waters shall effect systematic works for the recognition and exploration of petroliferous deposits as they judge convenient allocation being made each year of the necessary amount in the General Budget of the Republic. That institution shall also formulate plans and maps showing the division in lots of the various deposits and prepare catastral plans in which shall be inscribed the concessions of exploration and exploitation which shall have been so granted.

Art. 41. The Government shall dictate the regulations necessary for the better application of this law.

Art. 42. All laws and regulations in opposition or contradiction of this enactment hereby become cancelled and void.

URUGUAY.

MINING LAW.

The Senate and Chamber of Representatives of the Republic of Uruguay, in General Assembly, March 6, 1913,

DECREE:

Art. I. From the promulgation of the present law, all petitions that may be presented for the register or denunciation of mines and all requests or judgment of denunciation on account of abandonment or depopulation or want of shelter or working, shall pay a tax of \$0.25 (Twenty-five cents) per hectare, which shall be paid quarterly and remitted through the General Direction of Mines to the General State Treasury.

Art. II. Each of those claiming the best right to a concession, denouncement or register, or to the denunciation on account of abandonment or depopulation, is obliged to pay the tax during the litigation without right of reclaiming or of subsequent restitution. The litigants or interested persons, being several on each side, shall come to an agreement between themselves for the payment of the tax, within ten days, without detriment to the responsibility and of the caducity referred to in the following article.

Art. III. The nonpayment of two quarters, as also not arriving at an agreement within the ten days referred to in the preceding article, for the mere fact of being occasioned and without any other transaction or necessity of any declaration, shall lose all right of register or denunciation, the mine being susceptible to a new denunciation, by a third person, who shall pay, on presenting himself before the Judge with the first petition, the amount of the quarterly tax.

Art. IV. Once the mine is registered, measured and marked, a title shall be issued by the competent Judge, with the indispensable references and inserts. The Ministry of Industries shall countersign that title, which shall be of unquestionable validity before any authority of the Republic.

Art. V. For the title issued and countersigned by the Ministry of Industries to continue in its validity, it shall be necessary that a year and a half after its being countersigned, the concessionaire, besides paying the quarterly tax, proves having spent in the exploitation of the mineral, on instruments and machinery, the amount of five thousand pesos (\$5,000.00) for each concession.

The rights of the concessionaire that fails to pay the quarterly quota before the year and a half of the title being countersigned shall lapse, that concession not being able to be again adjudged without previous bids at auction before the National Judge of Finance, with a month's advertisement, and to the best bidder.

In case persons interested in the concession do not present themselves, the previous concessionaire may again obtain the title, filling the terms of the law and again taking the proper course for the obligation to which insert 1 refers from the date of the new title.

Art. VI. From the promulgation of this law, there shall not be judicially transacted nor given course in the administrative way to any affair on mines, nor

shall there be authorized concessions of any kind, without the intervention and report of the General Direction of Mines with audience, in every case, of the Fiscal of Finance.

The General Direction of Mines besides presenting itself to intervene in all expedients that should be initiated on mines, shall also present itself in all judicial or administrative transactions, and take full account of them, as also of archives, whatever their character may be, and demand the strict fulfillment of this law and of the dispositions of the Mining Code, especially in what refers to denunciations.

Art. VII. Immediately after this law is promulgated, the General Direction of Mines shall request that all the registers or denunciations where it is not recorded that they have practised the works that those articles establish, or that they have not proved through the report of the General Direction of Mines, be declared lapsed in conformity with articles 66, 67, and 71 of the Code in force.

The Judges shall declare the annulment according to article 70 of the Code, always that it is not proved that the expressed works have been realized. The term to realize said works shall be counted from the date of the respective register or denunciation.

All the new registers that should be effected from the denunciations referred to in the previous insert, shall also be declared lapsed "ipso jure."

From the declaration of annulment produced "ipso jure" there shall be no recourse whatsoever, and the mine may be registered or denounced by others.

Art. VIII. The registers and all the denunciations of mines in which no negotiation whatsoever has been made by the interested persons during three years, counting from the date of register or denunciation, are and shall be declared lapsed "ipso jure."

Art. IX. The dispositions of articles 7 and 8 shall only be applicable to registers and denunciations existing at the time of promulgation of this law. The new denunciations, registers or concessions, shall be controlled by the other dispositions of the present law, it being sufficient to preserve the title of property, the regular payment of the precept and the inversion of the capital that article 5 determines.

Art. X. In conformity with article 42 of the Code in force, the General Direction of Mines shall request that the registers and concessions of mines granted to persons that did not discover them, be declared lapsed and without effect.

If any opposition is made, it shall be sustained with a transfer to the General Direction of Mines, opening a term of justification according to the distance, and the allegations being produced, it shall be resolved within the term for the intermediates. From the sentence of the National Judge of Finance there shall be appeal before the tribunal of turn, whose sentence shall be final. In all the support, the Fiscal of Finance shall intervene.

Art. XI. The requests for registration or concession of mines shall be made separately for each mine or concession of a mine, not admitting in any manner to include together two or more concessions.

In the case of contiguous mines, after the first transactions, there may be made to run together the expedients on the request of the interested persons and previously reported on by the General Direction of Mines, if it should be favorable. The requests of any kind, at present accumulated, shall be cancelled at the request of said Direction, in the expedients in which there is nothing judged on the accumulation.

The brief of presentation shall be accompanied by a plan or sketch duly marked and in triplicate, of the mining concession, one of which shall remain in the possession of the interested party with the evidence signed by the Gen-

eral Direction of Mines of the date of its presentation; the second shall be added to the expedient in transaction, and the third shall remain in the archives of the General Direction of Mines.

Art. XII. The publications of the register of mines (Article 38 of the Code), shall be made within ten days of being issued, in the "Diario Oficial" and in one of the newspapers of the Capital of the Department where the mine is situated, for twenty consecutive days, under the penalty of cancelling of the registration "ipso jure," if those publications are not fulfilled and a writ to justify it presented to the "Diario Oficial" within twenty days following the last publication.

Art. XIII. The Government and Finance Notary shall immediately give notice to the General Direction of Mines, of everything recorded in the register of mines and of all requests for concessions or registrations, abandonment or denunciation that should have been presented to the Tribunal, as also of those that in the future should be presented on registration or concession, requesting to that effect from the petitioner the complete copy of all petitions, documents or plans that the parties should present, which, duly authenticated and confronted, shall be passed to the General Direction of Mines with the sample of the Mineral in the case of article 34 of the Mining Code, issuing to the Direction the corresponding security for the identification of the sample that shall remain in deposit.

From the promulgation of this law, there shall be carried separately in the Office of the Government and Finance Notary, the following books, authenticated by the National Judge of Finance:—

The book of registrations and denunciations of new mines.

That of abandonments and denouncements.

That of definite concessions.

The Judge of Finance shall see to it that these books are kept with due correctness and regularity.

Art. XIV. The Mining Code in force is interpreted as declaring that the restrictions relative to the registrations, as they can not be made in quantity by one single person or company, they are applicable to the denunciations.

Art. XV. All the articles of the Mining Code in force that oppose the present law, are abolished.

TRANSITORY DISPOSITION.

Art. XVI. The Executive shall appoint one or several persons commissioned to revise and reform the Mining Code, who shall receive the remuneration that shall be fixed, once their work is finished and approved.

(D. O. March 14, 1913.)

(From the American Consulate, Montevideo, Uruguay.)

VENEZUELA.

CONTENTS.

	Page.
Law of mines of 1920.....	604
General dispositions.....	604
Right to exploit mines.....	605
Persons who may acquire mines.....	606
Acquisition of concessions.....	607
Uniformity of measurement—Extent, form and duration of mining concessions.....	608
Things that may be availed of free.....	608
Caducity of denouncement and mining concessions.....	609
Renunciation and relinquishment.....	609
Servitudes in the matter of mines.....	610
General dispositions.....	610
Use of water for mines.....	610
Taxes—Obligations and privileges.....	612
Territorial mining division and employees of mines.....	613
Mining companies.....	615
Mortgages and other contracts.....	616
Policing of mines.....	616
Laborers—Hours of labor.....	616
Responsibilities and fines.....	617
Procedure.....	619
Concerning explorations.....	619
Measurements and acquirement of final title.....	623
Renewals of concessions.....	625
Requirements for the exploitation of pits.....	625
Declaration of caducity and the acquisition of expired mines.....	625
Collection of rents of mines.....	626
Reduction of size of the concessions.....	627
Manner of renouncing mines.....	627
Rights of way and the policing of mines.....	628
Fees in connection with mines.....	628
Final dispositions.....	629
Exploitation of hydrocarbons.....	629
Fundamental dispositions.....	629
Right to explore.....	631
Exploitation contracts.....	635
Contracts with explorers.....	635
Exploitation contracts in the reserved zones.....	638
Rights and obligations of the contractors.....	639
Nullity and caducity of contracts.....	641
Various dispositions.....	642

LAW OF MINES OF 1920.

The Congress of the United States of Venezuela decrees the following:

BOOK I.

TITLE I.

GENERAL DISPOSITIONS.

Art. 1. The mines and everything in connection with them shall be governed by the dispositions contained in this law, by special laws, having a bearing on certain minerals and in default thereof by the general laws of the Nation.

Art. 2. Mining titles may be denounced by those who discovered mineral deposits of: Antimony, arsenic, sulphur, asbestos, aluminum, bauxite, barium, boron, bismuth, cadmium, cobalt, copper, chromium, zinc, tin, strontium, iron, manganese, mercury, molybdenum, nickel, gold, silver, platinum, lead, rhodium, selenium, tantalum, titanium, tungsten, uranium, vanadium, "iterbic," yttrium, grafite, mica in sheets, Diamond, Emerald, Ruby, Sapphire, Opal, Topaz, Turquoise, Garnate, Baryl, Hyacinth, Pale Green Baryl, and other minerals susceptible of being commercially utilized excepting those enumerated in the following articles of this title.

Art. 3. The exploitation of the hydrocarbons, coal and other combustible minerals shall be governed by special law.

Art. 4. The right to exploit deposits of "Urao" (sesqui-carbonate of soda and carbonate of soda) can only be obtained by special contracts with the Federal Executive, respecting rights that have already been obtained.

Art. 5. Mines of rock salt, salt pits, and other salt deposits shall be governed by dispositions of the Law of Salt Deposits, (Ley de Salines).

Art. 6. Building stones and stones of any other description, except precious stones, marble, porphyry, kaolin, magnesite, sand, slate, clay, lime, gypsum, pussolana, turf, and earthly substances, "Huano," phosphate, potash and other fertilizers belong to the owner of the land who may exploit them without special formalities. The exploitation of said substances is only subject to the supervision of the authorities as far as the police and the safety of labor is concerned.

Art. 7. The Federal Executive may, by means of special contracts, grant the right to exploit stones and other substances mentioned in the previous Article and which are found on wild or public lands.

Art. 8. The occupants of wild or public lands have preferential right to close contracts of which the previous Article refers except those referring to substances which will be mentioned in the following Article.

Said contracts shall not be granted for over 10 years nor for a tract of land exceeding 50,000 hectares.

The contracting parties shall pay a certain sum in proportion to the value of the exploited substances and the contracts closed have to be ratified by the National Congress.

To this end there will be published in the Official Gazette, an extract of the proposed contract, giving the said occupants not less than 4 months starting with the day of publication if they see fit to exercise the right of preference unless the Federal Executive has entirely rejected the proposed contract.

Art. 9. Occupants of wild lands have no preferential rights indicated in the former Article with respect to the exploitation of marble and porphyry quarries, kaolin, and magnesite, but the contracting party will compensate the occupants for damage done.

Art. 10. Pearls, corals, sponges, amber, and other similar substances are not considered as mineral deposits and therefore they are not subject to the dispositions of this Law.

TITLE II.

RIGHT TO EXPLOIT MINES.

Art. 11. The right to exploit mines, to which Article 2 refers, can not be acquired except through a concession from the Federal Executive in the form prescribed by this Law.

Art. 12. All mining titles require the approval of the National Congress in conformity with the stipulations of the National Constitution.

Art. 13. The right acquired by virtue of the concession during the life thereof has all the plenitude that the law gives it, and the concessionaire may dispose of it in accordance with the general principles and the special provisions of law.

Art. 14. Every mining concessions can be alienated or transferred to any person or company save the legal exceptions; advice of such transfer must be given to the Minister of Fomento not only by the seller but also by the buyer.

The partial transfers will have no effect with respect to the Federal Executive.

Art. 15. Every mining title shall be registered in the corresponding subaltern Record Office,

Art. 16. The law distinguishes between soil and subsoil; the first begins at the surface and extends to a depth of three meters in a vertical line, provided always that the work of the owner shall not have reached a greater depth, because in that case it shall be prolonged to the distance required by the safety of the construction in the judgment of experts, the subsoil shall extend indefinitely in depth from where the soil stops.

Art. 17. The mining concessions comprises only the subsoil in private property; the surface remains under the control of the owner from whom it can only be expropriated according to law.

Art. 18. The proprietor of the mines or concession when there is question of surface and when an agreement has not been reached with the owner, shall have a right to have it expropriated. The Law presumes the necessity of its expropriation save on proof of the contrary in the following cases:

1. For the opening or widening of galleries or deposits of tailings.
2. For the construction of dwelling houses, warehouses, shops, tanks and other similar things.
3. For the establishment of reduction works and their dependencies.
4. For the transportation of the material exploited.

Art. 19. The expropriation suit shall be conducted and decided in accordance with the Law on the subject. The Judge who exercises ordinary jurisdiction in the First Instance in the territory wherein the mine is located is competent to hear the suit.

The expert valuers shall take into consideration all the damages which may be caused to the owner of the land.

Art. 20. The title of a mining concession located on Wild Lands, gives the owner, without the necessity of fulfillment of any other formality the use of the surface corresponding him, without prejudice to third parties and during the life of the concession. This right does not include the right to exploit valuable woods, rubber and other vegetable products of important commercial value which may be found on said lands.

Art. 21. The clearings, refuse, and dump heaps of abandoned mines are integral parts of the mine to which they belong; but so long as the mines have not become private property they shall be held to be of common utility. The refuse or dump heaps of old reduction works abandoned by their owners so long as they are not found on fenced or walled lands, are likewise so considered.

Art. 22. The concession gives a right to exploit all the minerals found therein, without the necessity of any other requisite other than the notification to the Minister of Fomento of the new mineral discovered for the effects of the payment of the production imposts. Exception is made of nondenounceable substances and what is provided in the following Article.

Art. 23. In alluvial or clay mines the concessionaires must fulfill the prescriptions of the Law in order to acquire veins or lodes which may be found in their concessions, and they shall have preferential rights over any other denouncer.

Each time a denouncement is made for vein or lode in an alluvial concession the Mine Guard or his substitute shall immediately notify the mine owner or his representative who shall sign and date the notification. From this date there shall be conceded to the owner a period of six months in which to make good his preferential right.

Art. 24. Likewise the owner of a concession shall have preferential rights, when if working his concession he comes on to lands not already granted or which have become denounceable again, for obtaining a title for the mine where these discoveries are made.

Art. 25. When in the course of an exploitation a foreign concession may be invaded the gross value of the mineral extracted therefrom shall be divided by halves with the abutting owner; but if it be proved that the exploiter did not act in good faith he shall pay the injured abutting owner double the value of what is extracted without prejudice to the punishment to which the act might give rise in accordance with the penal code.

Art. 26. By virtue of the title to a mining concession granted by the Government, its owner, if he should not have a domicile in Venezuela, is under the obligation of naming a representative with sufficient powers and fixed domicile in the Republic for the effects of the communications or notifications that might be necessary insofar as concerns the mine. The domicile of the representative can only be in the respective mining circuit or in the Capital of the Republic.

The Power should be added to the record in certified copy.

In case of death, resignation or absence of the representative another attorney in fact must be constituted.

Art. 27. All mining concessions shall be considered as a contract and it is an implicit condition that the doubts or controversies of whatever nature that may arise by reason of the concession and which can not be settled amicably by the contracting parties shall be decided by the Courts of Venezuela in conformity with its Laws, without for any reason being able to give rise to foreign claims.

TITLE III.

PERSONS WHO MAY ACQUIRE MINES.

Art. 28. Every Domestic or foreign person or Company qualified by law may acquire mining concessions in the Republic; save the exceptions contained in the following Articles.

Art. 29. The following persons can not acquire, mining concessions in whole or in part by denouncement or contract with the Federal Executive so long as the functions last which they discharge.

(1) The President of the Republic or whoever acts in his place, his Secretary General, Cabinet Ministers, Senators and Deputies to the National Congress, the employees of the Minister of Fomento, in the section having charge of mining matters, and whatever special agents that may be created, within the jurisdiction in which they exercise their functions.

(2) The President of the State, the Deputies to the Legislative Assemblies, the Secretaries General of the Presidents of the States, Governors of territories, sections of States and the Federal District, Civil Chiefs of the Districts or Municipalities in the territory of their respective jurisdiction.

(3) The engineers, surveyors or technical experts who exercise administrative functions in the Department of Mines.

(4) The Judges or Magistrates to whom the administration of justice concerning mines is specially committed.

The foregoing prohibitions do not include the obtaining of mines by inheritance or devise during the exercise of said functions nor the purchase of rights or shares from third parties in mines granted prior to their taking Office.

Art. 30. Nor can Foreign Governments or states acquire mining concessions by means of any title nor can they be admitted as partners for the exploitation of mines in the territory of the Republic.

Art. 31. The contravention of the provisions of Article 29 shall produce the absolute nullity of the mining concession but if the Title or contract has been obtained through intermediate persons, it will be necessary to prove dissimulation.

Art. 32. The breach of the provisions of Article 30, causes as a matter of right the nullity of the respective mining title if the defect is of date prior thereto and to its caducity if the fact is subsequent thereto. If the acquisition were effected through agents or straw men of a foreign Government, this circumstance having been proved in litigation the nullity or caducity as the case may be, shall be declared.

TITLE IV.

ACQUISITION OF CONCESSIONS.

Art. 33. The discoverer of a deposit of the substances enumerated in Articles 2 and 3 and who has complied with the formalities contained in Title II of Book II has the right during the first ten years that the Mine is in exploitation to one per cent of the mineral won in an area of five hectares the center point of which shall be the place of the discovery.

The right to which this article refers can be ceded but it is not valid for mines the title of which is given after ten years from the date of the discovery.

Art. 34. The first to denounce a mine under the formalities prescribed in this Law has a right to obtain the corresponding title if it is for one of the deposits referred to in Article 2.

Art. 35. The Law presumes, until proof to the contrary, that the mineral actually exists and that it is industrially and commercially exploitable but the granting of the title does not make the Nation responsible for the truth of these facts.

Likewise, until proof to the contrary, the good faith of the denouncer is presumed but the Nation is in no case responsible for the curing of title nor to him who obtains a title to concessions which afterwards turn out to belong to third parties not to these, on account of the granting of the new title, leaving to them their actions against the new concessionaire for nullity of the title and other actions that might lie.

TITLE V.

UNIFORMITY OF MEASUREMENT—EXTENT, FORM AND DURATION OF MINING CONCESSIONS.

Art. 36. The mines shall be determined on the surface by fixed points and lines taking as a unit of measure the hectare, or say an area 10,000 sq. meters and in depth by indefinite vertical plains.

Art. 37. The extension of mines of veins or lodes shall not exceed two hundred hectares and they shall be marked in the form of squares or rectangles.

Art. 38. The extension of mines of alluvion or other forms of deposits which are to be exploited by mechanical system shall not exceed 2,500 hectares and shall be in the form of a square or a rectangle.

When the exploitation is to be of the sands of a river bed the demarcation shall be a polygon of right angles.

Art. 39. The vacancies or free space that may remain between two or more concessions which do not exceed five hectares shall be granted by the Federal Executive to the first of the abutting owners that may petition it after presentation of the corresponding plan verified by Mine Guard and a favorable report of the Technical Inspector of Mines.

Art. 40. If a third party seeks the fraction to which the foregoing article refers he must follow the procedure of denouncement; and if the abutting owners should make opposition preference shall be given to the one holding the oldest title if one only should appear to this one, as against the third party.

Art. 41. When the free space consists of more than five hectares the abutting owners shall not have a right of preference and it shall be allotted to the first one who fulfills the requisites established by this law for its acquisition.

Art. 42. Free spaces shall never be counted of less than one hectare for the purposes of the payment of taxes so that every fraction of hectare shall pay the same as a complete one.

Art. 43. The deposits of veins or lodes shall be granted for periods of ninety years and those in other forms for periods of fifty years when they are for substances enumerated in Article 2.

Art. 44. The concessionaires of mines obtained during the time that previous mining laws were in force have the right to reduce the extension of their concession if they fulfill the requirements referred to in Title VIII of Book II of this Law.

TITLE VI.

THINGS THAT MAY BE AVAILED OF FREE.

Art. 45. The exploitation of placer minerals in whatever sort of caps or deposits, on Wild Lands or in the bed of streams belonging to the public domain is of free enjoyment provided always that the mining is done by washing in a pan or any other primitive method.

Art. 46. At any time when it is proved that mechanical apparatus has been used the work shall be stopped and the exploiter shall have imposed on him the corresponding fine.

Art. 47. When the exploitation is carried on by pits, there shall be understood thereby squares of ten meters on a side of an indefinite depth.

Art. 48. Whoever works a mine by the means of pits becomes the owner of the fragments of exploitable mineral whether they be loose stones, quarries or remains segregated from veins, that can be broken or pulverized in mortars or by hand.

Art. 49. When well defined veins or lodes are exploited the Mine Guard shall stop the work and impose on the exploiter the fine in the case.

Sole Paragraph. For the effects of this Article it is understood that well defined veins or lodes shall be those of quartz or other material that have fifty meters in length exposed and a thickness of not less than fifty centimeters.

Art. 50. The suspension for eight months of every sort of work in a marked pit renders it free.

Art. 51. The extracted mineral can not be disposed of without paying the tax fixed in Article 86.

Art. 52. Free enjoyment is at a hazardous title and provided always that public interest does not require something else.

TITLE VII.

CADUCITY OF DENOUNCEMENT AND MINING CONCESSIONS.

Art. 53. Denouncements lapse:

1. For not having presented a plan of land within the period allowed in Article 181.

2. For failure to correct the faults noted by the Minister of Fomento in accordance with Article 185.

3. For failure to deliver the amount in stamps which Article 87 fixes and the sealed paper as called for in Article 186 for the issuance of the title within the year following the material possession.

Art. 54. The right derived from the concession extinguished by the expiration of the term for which it has been granted without the necessity of a special declaration. During the term of the concession this will become lapsed for the following causes:

1. The failure to pay during the year the superficial or land tax as called for in Articles 83, 84 and 85.

2. The relinquishment or intentional abandonment by the concessionaire.

Art. 55. Concerning the Validity or Nullity of mining titles the Federal Cassation Court shall take cognizance.

Art. 56. If the concession is declared lapsed it may be granted to any new petitioner who must fulfill the provisions of Article 201 likewise in case the term if the concession has expired.

Art. 57. The concession which returns to the State does so free from all liens.

TITLE VIII.

RENUNCIATION AND RELINQUISHMENT.

Art. 58. Every mine proprietor may relinquish his concession after giving written notice to the Minister of Fomento sent thereto through the conduct of the Mine Guard of the domicile of the petitioner or whoever acts in his place.

Art. 59. As soon as the Minister of Fomento receives the petition of renunciation he shall forward it to the Judge of the First Instance of the respective Jurisdiction in order that he may follow out the procedure provided in Book II of this Law and according to the foregoing.

Art. 60. The renunciation on being admitted on account of there being no opposition will have the effect of stopping the obligation to pay the mining tax from the day of presenting the petition.

TITLE IX.

SERVITUDES IN THE MATTER OF MINES.

SECTION I.

GENERAL DISPOSITIONS.

Art. 61. The servitudes that are constituted should be only to the extent necessary to which they are destined.

Art. 62. All the servitudes that may be necessary to establish for the exploitation or working of the mines in wild or community lands shall be established gratis; this without prejudice to the rights that belong to the occupant on account of improvements.

Art. 63. The mining concessions shall enjoy the servitude of right of way, or road in any forms (including railways and suspended cables) drainage, excavation, aqueducts and anything similar, and of the use of water as is determined in section II of this title after indemnity in accordance with the Civil Code.

Art. 64. The galleries or tunnels can only be undertaken by those whom they necessarily interest save agreement to the contrary.

Art. 65. The galleries between two mines made for drainage or ventilation should be closed by iron gratings imbedded in the walls which shall prevent communication between the two properties.

Art. 66. The drainage of mines by means of workings at a lower level can not be carried out except through a favorable report of an Engineer and permission of the Guardaminas without prejudice to the other legal formalities.

Art. 67. When a group more or less numerous of mining concessions is threatened by or suffers the consequences of flooding common to all of them that involves their existence or prevents the extraction of minerals the Mine Guard and in his absence the Civil Chief of the District shall oblige the concessionaires to execute in common and at their cost the works necessary in the judgment of experts to drain the inundated mines in whole or in part or to stop the progress of the inundation establishing a common servitude.

SECTION II.

USE OF WATER FOR MINES.

Art. 68. Every owner of a mining concession has a right to take of the water of public domain the quantity he may need for the service of working his claim under the following conditions:

1. That he shall not prejudice the inhabitants of villages or hamlets which are supplied by said waters.

2. That the quantity of water admit of this with regard to preferred rights.

3. That whenever it is taken from navigable rivers or those capable of transportation he shall not prejudice the navigation or transportation be it by diminishing the water or be it by the dumping of dirt or sand.

4. That the poisoned water shall not be returned to the common water course without first having been filtered or rendered inoffensive.

Art. 69. Preferential rights are obtained in accordance with the time when exploitation of the mine has begun and provided always machinery for working it has been installed without regard to the date of the concession.

Art. 70. The use of waters naturally flowing which are not of Public Domain with respect to the owners of mining concession shall be governed in accordance with the following provisions:

1. When they cross the surface of the concession itself its owner may make use of them as of his exclusive property while they continue its borders with the sole obligation of not wasting them or rendering them useless and of returning the surplus to their natural course. If they must be rendered useless or poisoned he can not make use of them except in part.

2. When they run along the edge of two concessions with surface belonging to each, the owners of fronting properties have a right to make use thereof proportionally to the industrial establishments in activity and in the order of their establishments, returning the surplus to their natural course. Their proportion shall be fixed by common accord and in case of disagreement by unrestricted arbitration, experts on the subject; taking as a rule that the later installation only has a right to the water not needed by the party in front.

3. When the riparian owner taking into consideration the situation of the places, can not make use of the waters which run by the surface of his concession he may take them from those of his neighbour provided always he does not prejudice the rights of the latter.

Art. 71. The use of the waters that are not of the Public Domain to the proprietors of mining concessions are only for the benefit of the riparian concession without it being possible to extend it to other concessions not contiguous although they also belong to them. Nor can they make use of the waters if they can not return them to their course save where no prior concessions or rights exist.

Art. 72. The wrongful use of waters or their waste may be claimed by everyone holding an interest therein and whoever uses them badly shall be compelled to improve his use of them and to pay a fine of from 100 to 500 bolivares in each case according to the circumstances and in benefit of the party prejudiced.

Art. 73. When the owner of a concession is not the owner of the surface he shall have the right after expropriation to make use of the waters in accordance with the rules established in this title, and in absence thereof in accord with these determined in the Civil Code in so far as they may be applicable.

Art. 74. Every owner (of) land crossed or bordering on waters of the Public Domain or which do not belong to him has the right to employ them for motive force and in no case can he be forbidden them for the necessities of life.

Art. 75. The rights granted to the owner of mines by the foregoing articles do not deprive the owner of the surface of the waters necessary for watering his plantations that he may there have established, provided always the quantity permits since otherwise there is open to the mining owner the action of expropriation in accordance with the law.

Art. 76. The servitudes of an aqueduct established over land where there is a mine shall remain in force in any event without their enjoyment being able to be denied the owner of the mine save agreement to the contrary.

Art. 77. If the working of a mine can not be accomplished except with the water without which another mine already in exploitation is worked; the new denouncer shall have the right to take such water provided always he fulfills the following requisites:

1. That he provides first at his cost to the prior mine another water for its working in sufficient quantity.

2. That he indemnify the proprietor of the prior mine any damage that the variation of the stream may bring to him, whether on account of the greater cost of its preservation or on account of any other circumstances.

Art. 78. Every water-right abandoned by the proprietor or who used to make use thereof brings about the cessation of the rights that might have belonged to him. The abandonment must appear from facts which makes the abandonment clear.

Art. 79. The rights to waters is transferred with the rights over the mines although this is not expressed, save agreements to the contrary.

Art. 80. The right of using waters belonging to a mining concession rendered vacant are not revived by the new denouncement that may be made if they have been put to use by another.

Art. 81. Every person who uses water and is obliged to return surplus to the stream must do this within his own boundaries save agreement to the contrary.

Art. 82. Mining properties and those which border on them are subject to the servitudes to which Article 63 refers without the need of further proof as to their necessity on the part of the person requesting them and the others that it may be necessary to establish shall be governed by the provisions of the Civil Code.

TITLE X.

TAXES—OBLIGATIONS AND PRIVILEGES.

Art. 83. The mines of alluvion or clay or in other forms than determined in the following Article shall pay Bs. 0.50 per year per hectarea during the first three years of the title, and one bolivar per year per hectarea during the rest of the period of the concession.

Art. 84. The mines of veins or lodes shall pay one bolivar per year per hectare during the first three years of the title and two bolivars per year per hectare during the rest of the period of the concession.

Art. 85. When the exploitation of the mine has not commenced within three years after issuance of title or if it has been suspended through force major, duly proved in either case, the superficial tax shall be fifty centimos of a bolivar for alluvial mines and on one bolivar for mines of veins or lodes.

Art. 86. The payment of the tax on exploitation is obligatory from the time that mineral is won from the mine and is as follows:

For each gram of gold ten centimos of a bolivar.

For each ten of copper mineral sixty centimos of a bolivar.

For the other substances enumerated in Article 2 three per cent of the commercial value of the mineral won calculated at the outlet of the mine in accordance with the average price which the mineral has had in the market during the previous half year.

Sole Paragraph: The concentrated minerals will be taxed in proportion to the concentration which has been applied.

Art. 87. The concessionaire shall pay in addition:

1. Five bolivares in stamps which shall be cancelled in the registry of all denouncements.

2. Twenty five centimos of a bolivar in stamps for each mining hectarea of veins or lodes to be cancelled when title is issued.

3. Three centimos of a bolivar in stamps to be cancelled when title is issued, for each hectarea of mines of alluvion or clay.

Art. 88. The petitioners for exclusive exploration permits shall pay 250 bolivares per year for each thousand hectares on fraction of a thousand hectares included in the zone the exploration of which is asked for.

Art. 89. The concessionaires of mines or their administrators shall keep two books one in which they shall note daily the number of kilograms or metric tons of minerals extracted, and the other in which they shall note the amount of grains or kilograms of raw metal extracted from each kilogram or metric ton of mineral exploited. These books before being placed in use shall be presented to the Judge of First Instance who exercises jurisdiction on the terri-

tory of the location of the mine to the end that said official may place on the first page of each book a note of pages that it contains, dated and signed by the Judge and the Secretary. The other pages shall be marked by the Judges with his flourish.

Art. 90. The exporters of the products of the mines referred to in Article 2 shall manifest in the Custom House through which they make their exportation the name, location and proprietor of the mine from which come the minerals to be exported.

Art. 91. The Machinery, Dredges, Utensils and accessories for the working of mines as well as the accessories for the motors, lighting and ventilating thereof, the machines, instruments, utensils and accessories for the metallurgical establishments and the chemical products for the assay and reduction of metals shall be exempt from import duties also there shall be the repair parts of machines, the grease for axles, the steel, iron in bars or in sheets, the copper in sheet for the amalgamation and whatever other metals in primitive form such as silver, zinc, and others that may be necessary for the chemical assay and treatment of minerals. The interested parties shall state minutely the objects to which this article refers and shall fulfill the formalities prescribed in the Treasury Code.

Art. 92. The explosives for the working of mines can not be classified higher than in the third class of the customs tariff, the Executive being authorized to concede exoneration when it deems it proper. Their introduction, storage and transportation shall be subject to the regulations that the National Executive may dictate and to the Police Laws of the Locality.

Art. 93. The responsibility that attaches for on account of the fraudulent introduction of objects as for the working of mines and destined to another use shall be made effective as a preferred credit against the mining concession for which the introduction has been made.

Art. 94. Every concessionaire of mines, for the exploitation thereof, has the right to establish ways of communications that may be necessary such as railroads, tramways, aerial cables to transport the minerals, and the products of exploitation, whether to central offices or to points of embrakation as well as to construct wharves or loading stations the corresponding plans and projects to be submitted to the Federal Executive for its consideration.

Sole paragraph: All the material required for the purposes of the proceeding Articles shall be exempt from Custom duties.

Art. 95. The machinery and other effects that a concessionaire may import free of duty for the exclusive use of his mine, or mines, can not without previous permission of the Federal Executive be alienated in any form nor be used except for the mine or mines for which they were imported nor can they be taken out of the country without said authorization.

The Federal Executive may exact the payment of the corresponding duties that have been exonerated.

The violation of the provisions embodied in these articles, shall be punishable by a fine of from 1,000 to 20,000 bolivares in accordance with the importance of the case.

TITLE XI.

TERRITORIAL MINING DIVISION AND THE EMPLOYEES OF MINES.

Art. 96. For the purpose of this Law the Federal Executive shall create mining circuits that it deems advisable each one of which can include various States or Territories and it shall subdivide them into Mining Districts. They

shall be headed by engineers and there can be added other employees if it is considered advisable.

Art. 97. The administration of everything pertaining to mines corresponds to the National Executive through the Minister of Fomento and the other employees in this Department.

Art. 98. In each mining district there shall be a Mine Guard whose office shall be in each case located where designated by the Minister of Fomento.

To fill the position of Mine Guard it is necessary:

1. To be of age.
2. To be an engineer or surveyor or to have the practical knowledge of the mining industry.

Sole Paragraph: Until the Mine Guards are appointed the positions will be temporarily filled by officials who the Minister of Fomento will name for the purpose.

Art. 99. One Mine Guard can be named for several Districts.

Art. 100. The duties of the Mine Guard are:

1. To receive denouncement of mines, issue receipts to interested parties, to handle and control the docket until it is forwarded to the Minister of Fomento.
2. To issue tickets for the exploitation of pits. These tickets shall be made on stamped paper of fifty centimos of a bolivar and stamps to the value of one bolivar shall be cancelled and the Mine Guard shall not collect any other fee for this service.
3. To keep a "Book of Registry" pages and signed by the Civil Judge of the First Instance in the State, wherein there shall be transcribed the final titles issued by the National Executive, corresponding to the circuit under his charge as well as every instrument or whereby a concession is transferred in whole or in part to another owner, in which case a marginal note shall be placed where the final title is recorded.
4. To keep a book of registry for the tickets with the same formality, in which in consecutive order shall be registered the ticket for the exploitation of pits.
5. To keep a book of registry exclusively for exploration permits, with the same formalities, in which shall be noted the petitions for permits and of the permits issued.
6. To keep a "Copy Books of Reports" with the same requisites in which there shall be copied these which every owner or chief of exploitation should send him every month concerning the progress of the exploitation.
7. To send to the Minister of Fomento the original reports to which the foregoing number refers, as soon as he receives them, after having seen to it that they are correct which he shall make appear in a note placed on the report itself.
8. To verify on the ground the plans of the mining concessions and to give possession of them to the petitioners.
9. To keep a "Copy Book Acts of Possession" folioled and signed as the foregoing ones in which there shall be copied in its entirety every possession accorded. Each copy shall be certified and signed by the Mine Guard.
10. To visit every three months the mines. During these acts the enterprises shall place at the disposition of the Mine Guard or of the employees whom the Federal Executive shall designate their books of account in order to verify the exactness of the liquidations and payments of the mining imposts. If from the examination of the books it should be proved that some enterprise is defrauding the Public Treasury those convicted of the fraud shall pay a fine five times greater than the fraud committed and they shall moreover be placed at the disposition of the component tribunals for the corresponding trial.

11. To fulfill whatever other duty that by this Law, Regulations or Resolutions may be assigned to him.

Art. 101. In the Capital of the Republic there shall be a technical Inspector of mines who shall be a graduate engineer.

Art. 102. The Technical Inspectorship of Mines shall be under the direct orders of the Minister of Fomento.

Art. 103. The following are the duties of the Inspector of Mines:

1. To make general plans of the concessions situated in the different Districts adding all the geological data that it is possible to collect of the respective mining regions being obliged to formulate on it the notes relative to the names and class of mines, the number of hectares of each mine and the other necessary information on the subject.

2. To visit the mines in exploitation whenever the Federal Executive may deem it proper to take note of the methods employed in their working and in the assay of the various minerals. In these cases the Director or Representatives of one or more mining claims must place at the disposal of the Technical Inspector of Mines the means and manner necessary when he shall request them, to inspect the works thereof, and to exhibit to him the plans, pay-roll and other information that may assist a complete understanding of the exploitation and he must thus also present to him the title of ownership and other documents which substantiate the rights acquired over the mining claim when the Inspector may need them to clarify any circumstances that may affect the rights of the Nation or of a third party.

3. To render an annual report for each Circuit in which there may be denouncements or mines in exploitation in which there shall be set out its general condition, the improvements, possible therein and the faults which should be corrected in the benefit of the mining industry.

4. To make a report on every record wherein a concession of mines is requested prior to the issuance of the title.

5. To answer the consultations which the Minister of Fomento may address to him on the department of mines.

6. To keep a "Book-Index of Mines" in which shall be set out the name of the mine, its sort, number of hectares of which it consists, name of concessionaire, date of its allotment, its location, note of transfers and other indications relative thereto.

7. To discharge any other duty which by this law or the National Laws may be attributed to him, or by the regulations which the National Executive may dictate.

8. Make the analysis and assay of the precious metals.

Art. 104. There shall be an assistant to the Technical Inspector of Mines who shall help him in the discharge of the duties confided to the former. This official must also be an engineer.

Art. 105. The federal executive can name special Technical Inspectors for the different mining sections.

TITLE XII.

MINING COMPANIES.

Art. 106. The Companies or associations that may be formed for the exploitation and exploration of mines whether in joint part ownership, in simple silent partnership or by shares or corporations they shall be constituted according to the rules of the code of commerce and they have the character of civil companies.

Art. 107. The foreign companies in order to be able to exploit mines in Venezuela must fulfill the prescriptions of the special Law of Societies formed in other countries and the Code of Commerce regarding the establishing of a domicile in the place of the exploitation.

Art. 108. The properties, rights and actions of foreign mining companies in the country shall be responsible in the first place for the operations which with relation to their activity carried on in Venezuela.

TITLE XIII.

MORTGAGES AND OTHER CONTRACTS.

Art. 109. The rights derived from the mining concessions which are referred to in Article 13 for the mines enumerated in Article 2 is a property right and as such can be mortgaged in the legal form.

As a preferential right over any mortgage, the Treasury has the right to collect all sums which on account of the concession or its exploitation the owner is obliged to pay.

Art. 110. When a mine has been abandoned in accordance with the formalities of Article 58, the mortgagees can present themselves and claiming the rights of the debtor and assume the exploitation without the need of a new concession, unless the competent judge has declared the concession lapsed.

Art. 111. Every owner of concession can celebrate as regards the concession, rental contracts, but all of these as well as subrentals and transfers of rentals, the Minister of Fomento shall be notified.

Art. 112. The contracts noted in the Articles above and the other contracts which the owners of mines may celebrate shall be governed by the general law in the case in so far as these are not in conflict with this law.

TITLE XIV.

POLICING MINES.

Art. 113. Mines must be exploited in conformity with the precepts of the art, and with the dispositions of the Regulations which the Federal Executive may dictate.

Art. 114. The laborers may delegate some of their number to show the Directors of the works such parts as may be the cause of accidents. When the Directors of the works pay no attention to delegates referred to these can appeal to the Mine Guard who will order what is necessary.

Art. 115. The Mining Companies shall assist in every way the administrative authorities in the vigilance of mining work.

TITLE XV.

LABORERS—HOURS OF LABOR.

Art. 116. Laborers may work in a mine on a unit of time, by a unit work or by tank.

Art. 117. The actual day's work shall only be from 8 to 12 hours in the interior of mines and for the same time for the work done outside of them. Every agreement in which the duration is placed at more than this duration is void.

Art. 118. In work in the interior of mines, the day shall be divided into three shifts of eight hours or four of six hours as the case may be and the hours of

entry and exit of the shift the respective regulations of the mining company shall fix. During each shift an adequate number of workmen, foreman, and superintendents shall be employed.

Art. 119. Under extraordinary circumstances or by reason of urgency, a greater length may be assigned to the work of the day or the shift. In this case, the wages shall be increased at the rate of time and a half for overtime.

Art. 120. The wages shall be paid in cash by the week without it being permitted to be done in places of amusement, taverns, saloons, or stores.

Sole Paragraph: This payment by the week may also be made semi-monthly with those laborers who accept this form of payment.

Art. 121. Every condition is forbidden which directly or indirectly obliges the workmen to acquire objects of consumption in determined stores or places.

Art. 122. The salary, wages, stipend or retribution of a laborer can not be attached except up to one-third of its amount.

Art. 123. Be it in virtue of execution or by private agreements that the debtor may have made with his creditors no more than the part set out in the foregoing article can be embargoed the remainder being without responsibility, without regard to the form of the agreement.

Art. 124. Work in the interior of mines is forbidden for women or for those under 12 years of age.

Art. 125. The enterprise, the contractor, or the company, that exploits a mine is responsible for the accidents that may occur to its laborers and employees during work and occasioned directly thereby, provided always the salary does not exceed ten bolivares per day. If the incapacity is absolute and permanent the injured person is entitled to an indemnity to the amount of one year of salary. If it is partial and permanent he has a right to 9 months of salary. If it is absolute and temporary six months of pay, and when it is partial and temporary he has a right to the pay while the incapacity lasts. In case of death, the direct heirs have a right to receive from the enterprise of the mine an indemnity equal to two years of salary.

Art. 126. If the annual pay of the injured party exceeds 10 bolivares per day, he or his representative may invoke the present law up to said sum in which case there is an implicit renunciation for every indemnity for damages and injuries in accordance with the ordinary law.

Art. 127. The Executive Power shall fix the rules to establish the grades of incapacity of injured persons and shall indicate how the declaration of accidents shall be made and the judicial proceedings that shall be applied.

Art. 128. Managers of mining exploitations and those of production works shall formulate the internal regulations to which the enterprises shall be subject being obliged to determine therein; the hours of the day's work in the different branches, the salaries, the pay days, the places of payment and besides to insert all concerning workmen contained in this section.

Art. 129. Of the regulations that may be made three copies shall be fixed in the most public places of the offices and several copies shall be sent to the Mine Guard of the Circuit and to the Technical Inspector of Mines and to the Minister of Fomento.

TITLE XVI.

RESPONSIBILITIES AND FINES.

Art. 130. Every superior officer may impose administratively on the employees of his dependence for every mistake that he may note in the formation of the mining records or the fulfillment of his duties.

Sole paragraph: This fine shall not in any case exceed 100 bolivares.

Art. 131. The exploitation of minerals without a title when a concession is necessary shall be punished with a fine in accordance with the importance of up to 1,000 bolivares, but if the damage done to the treasury exceeds 200 bolivares the punishment shall be in accordance with the following Article.

Art. 132. The infraction of the Law of Mines which may prejudice the National Rent shall be punished by a fine equal to five times the actual or probable damage done.

Art. 133. The officials authorized to place fines are the Minister of Fomento and the Mine Guards or who may be acting in their stead. The fines imposed by the Mine Guards can be appealed to the Minister of Fomento within five days. There is appeal from the decision of the Minister of Fomento if made within ten days to the Federal Court.

Art. 134. When there is doubt as to the real extension of a mining concession, the Minister of Fomento shall order that it be corrected, and if it is found there was an excess in the measurements or indications of fraud or falsehood on the part of the responsible engineers or surveyors he shall give the necessary orders for the bringing of such proceedings as are necessary, without prejudice to the collection by the Treasury from the concession owner of all he may have taken advantage of an account of the area.

BOOK II.

PROCEDURE.

TITLE I.

CONCERNING EXPLORATIONS.

Art. 135. Every person, National or Foreign capable in law may make explorations, excavations, openings or trial pits to discover minerals in wild or community lands that are not rented or occupied without other formality than giving notice in writing to the first civil authority of the Municipality. The excavations shall not exceed 16 meters square but may be of an indefinite depth.

Art. 136. In privately owned lands and in wild or community lands, leased or occupied no exploration openings, trial pits or excavations shall be made without the previous written permission of the owner or occupant of the surface. If the property is owned in common the consent of the one or ones representing the majority of the rights is sufficient for the carrying on of the exploration in the parts not occupied by farms or cattle ranches and for these latter the consent of the respective owner is needed.

Art. 137. The explorer is bound to close properly the excavations he may make before he abandons them and in every case to the payment of the damages and injuries he may cause and this upon the just assessment of experts.

Art. 138. Whoever pretends to make explorations, openings, excavations, or trial pits, in lands of which 136 of this title treats shall address in writing the first civil authority of the Municipality wherein he shall set out name, surname, profession, nationality and domicile, of the owner for the land and the offer of the land to which the law of expropriation refers or in default thereof the deposit of an equivalent sum. This petition shall be made in due form and a copy shall be sent by the authority to the owner or occupant of the surface.

Art. 139. In case of refusal by the owner or occupant proceedings shall be taken according to the Law of Expropriation in the title on temporary occupation.

Art. 140. The authority at the same hearing shall order the giving of the bond and that a deposit be made; all the subsequent proceedings having been fulfilled he shall order the appearance of the owner or occupant of the land at the second hearing at a fixed hour to the end of hearing the reasons for which he bases his refusal.

Art. 141. The parties having been heard and none of the interested parties requested the expert examination of the ground the only proof admissible in these cases proceedings shall be taken to grant or refuse the permission requested in accordance with the Law of Expropriation in the title on temporary occupation.

Art. 142. If the permission has been obtained and the work finished the owner considers that the pits holes or exploration have caused him damage he can apply to the ordinary Court for collection for any damages that may have been done.

Art. 143. The authorities can not grant permission to make excavations or openings in the Patios, Gardens, Orchards or lots of dwelling houses.

Art. 144. It is absolutely prohibited to make openings in villages, cemeteries, mining concessions or on lands wherein there are pending denouncements.

Art. 145. The permission of the President of the State or Governor of the Territory or of the Federal District is necessary in order that excavations or other mining operations may be carried on within a distance of less than 50 meters from railroads, roads, canals, bridges, or similar works, and if there is question of other constructions the permission of the owner is necessary. In both cases the previous report of Exports named for the purpose is required.

Art. 146. It is likewise forbidden to make explorations, openings or trial pits at a distance of less than sixteen hundred meters of fortified places.

Art. 147. The Minister of Fomento shall issue permits for exclusive explorations to the persons who have the rights to acquire mines in the lands referred to in Article 135 in accordance with the following rules:

1. That the permits will not interfere with the rights previously acquired.
2. That the zone shall not exceed in extent 5,000 hectares.
3. That in the petition, there shall be clearly determined the location, boundaries and extension of land to be explored and the period of the permit.

Sole paragraph. The permit for exclusive exploitation can not be granted for more than two years.

Art. 148. The interested party shall present the permit which the previous paragraph refers to the Mine Guard of the corresponding jurisdiction and this Official shall register it in the Registry Book, noting the date, and he shall issue to the interested party the corresponding receipt which will state the number of the register and the date and hour of the presentation. The solicitant should sign the register.

Art. 149. The Mine Guard on the same day that he receives the permit shall order its publication in the newspaper for at least three times during a month and shall fix posters in the town nearest to the zone where exploration is to be carried on.

At the foot of the petition there shall be placed advice to persons who may believe they have the right to make opposition, that they must do so within 40 days from the first publication, and equally it should be made known to all persons who have discovered mines within the zone, that they must make their declaration as called for in Article 156, or the denouncer of the mine discovered within the same period.

Art. 150. The opposition shall contain all the data required for oppositions to denouncements and shall be verified and decided as such.

Art. 151. Having passed the 40 days mentioned in Article 149, without there having been opposition or if there has been there has been a decision, the Mine Guard shall deliver to the interested party an order for payment in which shall be placed the name of the solicitant, the amount which is to be paid in accordance with Article 88, the office for the collection of government funds, where payments should be made and the motive for the payment.

Art. 152. The interested party shall apply within two months to the Minister of Fomento with the receipt of payment of the order mentioned in the previous Article and he shall receive signed by the Minister of Fomento the permit asked for which shall state the zone and its boundaries, the period of time for which it is given, which shall date from the time that the permit is issued.

Art. 153. The permit should be published, in the local press within fifteen days and should be registered in the sub-registry office corresponding to the place in which the zone is located.

Art. 154. Only the person who has obtained the exclusive exploration permit in accordance with the previous Article can, to the exclusion of all others denounce mines in the zone conceded by the permit and during the period of same.

Art. 155. The exploration which for any reasons are converted into exploitations shall be suspended on order from the Minister of Fomento which shall be based on reports of the Mine Guard.

Art. 156. Every discoverer in the free lands of deposits of substances referred to in Article 2 of this Law, in zones for which there is not in force any exclusive exploration permit, and who does not pretend to obtain a mining concession or a contract for exploitation but only the exercise of the rights referred to in Article 33, should present himself to the respective Mine Guard and make under oath a declaration in which it shall clearly set forth the place, municipality or district in which the deposit exists with the demarcation of the five hectares referred to in Article 33, the date of the discovery and other information. He shall present a sample of the mineral which shall not weigh less than two kilograms and the testimony under oath of two witnesses who shall declare as to the truth of the facts.

Sole Paragraph. The declarations of the witnesses and of the discoverer can be made before a Judge and officially sent to the Mine Guard.

Art. 157. The declarations and the samples having been received the Mine Guard will send them to the Minister of Fomento and give to the interested party the corresponding receipt with all the data required.

Art. 158. The laborers in the service of the exploiters can not make use of the rights of Article 33.

Art. 159. The controversies which may arise regarding the discovery of a deposit shall be decided by the ordinary courts.

Art. 160. The persons who desire to obtain mines of the substances enumerated in Article 2 shall present either in person or through a qualified attorney the solicitude in which the denouncement is made before the Registrar of the respective jurisdiction for the purpose of having the denouncement recorded.

Art. 161. The Registrar in the note of record shall besides the requirements of the Law of Registry set out the day, hour and minutes upon which it was presented and he shall return it within 48 hours. The person presenting it has the right to demand of the Registrar written evidence of the presentation together with the notations above expressed which in the same way shall be made to appear in the Book of Presentations.

Art. 162. The denouncement should contain:

(1) Name, surname, nationality, domicile and profession of the petitioner, and if this should be a company its name or its associate title, its domicile, the place in which it was constituted and if this out of Venezuela, the declaration that the formalities of the special law on the subject and the Code of Commerce have been fulfilled.

(2) The name given to the mine and the place, municipality and district in which it is located.

(3) The number of hectares which it contains and the approximate location of it as regards one or more well known points and the approximate number of them.

(4) The name of the abutting owners, if there are any, the name of the owner of the surface, and if the lands include in whole or in part a concession which has been declared lapsed or whether the lands are wild or community; the statement of such circumstances.

(5) The class of mineral or mine it is supposed has been found and whether it is a vein or lode, placer, coverings or caps.

(6) The declaration that the denouncer accepts the obligation to pay all that this law fixes as payment to the Treasury, that he agrees to accept the causes for annulling the concession which is established, the proceedings provided for by the law and in fact all of the dispositions of the law.

Art. 163. When there is a question of area comprised in two or more departments or Districts, the registration of the denouncement in one of them is sufficient, making mention of the other (sic).

Art. 164. The priority of denouncements before the office itself of Registry the note thereof, shows, which shall be in entire accord with the schedule of presentations. When there is presentation in different offices of Registry the priority shall be decided by the Tribunals of Justice.

Art. 165. The denouncement having been registered it shall be presented within 30 days to the Mine Guard or his substitute. Said official shall in the same day decree by posters notifying all those who desire to oppose to appear before the Mine Guard and form the opposition within 30 days counting from this date. The Mine Guards must advise the Minister of Fomento of the denouncement and report all the circumstances in connection with it.

Art. 166. The posters shall be stuck up in the most public places of the locality and they shall be published by the press three times in a periodical of the place, and if there be none in the nearest one, and in hand bills, which to the number of 200, shall be sent to the Civil Chief of the municipality where the mine is located, who shall place 10 in the most visible and frequented places of the capital and shall distribute the others among the inhabitants of his jurisdiction leaving proofs of the facts, the notices should contain the entire petition with the Note of registry and the decree which orders their publication. Once the term for the fixing of notices has expired which should be examined every day to see if they have remained where they were put they shall be taken down and added to the record together with a copy of the publication made whether in periodicals or hand bills. In case the posters should be found to be detached, they shall be again fixed for the remaining time.

Art. 167. If during the term designated in Article 165 any person should appear making opposition, he shall formulate it in writing.

Art. 168. The writing of oppositions should contain, the name, surname, nationality and domicile of the opponent, the name and domicile of the person against whom it is directed; the object of the opposition with express determination as to whether it asks the whole or part of what is sought by the denouncer, the reasons clearly specified which are alleged, the legal provisions on which it is founded, the documents upon which reliance is placed shall be attached.

Art. 169. The denouncer within the fifty days after being notified shall reply, likewise in writing agreement or refusing to agree in whole or in part to the pretensions of the opponent and he shall submit the documents and reasons he sees fit.

Art. 170. Once the opposition has been contradicted, the Mine Guard may entirely overrule it, as unfounded on any legal disposition or upon any fact that is a direct consequence thereof, being bound to set out the reasons on which he relies. In a contrary case, he shall order the opening of hearing evidence for eight days nonextendable, and shall render decision.

Art. 171. The Mine Guard before deciding on the evidence submitted can have the written opinion of a graduate or undergraduate lawyer to whom he shall pass the record. The opinion of such lawyer is not binding on the Mine Guard.

Art. 172. The decisions of which the foregoing Articles speak must be rendered within the third day; but this time shall not be counted except after the lawyer or attorney shall have returned the documents.

Art. 173. The decisions of the Mine Guards may be appealed from within five days to the Minister of Fomento who in turn will give his decision within two months of the receipts of the record and who shall return the decision to the Mine Guard in order that the proceedings may be continued or the record filed as the case may be.

Sole Paragraph. The decision of the Minister of Fomento can be appealed from during the 10 days following the publication of the decision in the *Gaceta Oficial* before the Federal Court of Cassation to which in case of appeal shall be sent the original record.

Art. 174. All proceedings and notions concerning acquisitions shall be made on sealed paper of the lowest value that there is in the State; Federal District or Territory, cancelling thereon the corresponding stamps.

Art. 175. The proceeding in opposition does not preclude from any of the interested parties the petitionary or possessory actions he may believe he has which must be brought up in ordinary suits.

Art. 176. When there is question of denouncement which seeks to be simultaneous by reason of record in different jurisdictions in the case covered by Article 164 of this law, the Mine Guard shall not expedite them limiting himself to notifying the parties that they should appear before the competent Judge to ventilate their rights.

Art. 177. The owners of mines which abut can make opposition at the time of giving possession, when the measurements include the whole or part of their mines but in this case the suit to be brought is one of the demarcation which shall be heard and decided in accordance with the Civil Code, the act of possession being held in suspense until a decision is given.

Art. 178. When it is sought to exploit a substance that might give rise to confusion the authority before whom the denouncement is presented, shall order at the expense of the interested party all measures which may assist in clarifying it.

Art. 179. If after having heard the authoritative opinion, nevertheless doubt should occur as to whether the substance is or is not comprised in Article 2 of this Law proceedings shall be suspended and account shall be given to the Ministry of Fomento, for the purpose of obtaining a decision of the above. To that end samples of the substances shall be sent together with the record formed.

TITLE III.

MEASUREMENTS AND ACQUIREMENT OF FINAL TITLE.

Art. 180. The term designated in the posters having expired without there having been opposition, or in case of opposition it had been terminated, the interested party shall make a survey of the land in which the denounced deposit has been found and a plan shall be made by an engineer or public surveyor.

Sole Paragraph. The plan shall fulfill the following conditions: It shall be drawn on paper or cloth of good quality of a scale of 1 to 5,000 for mines of veins or lodes and 1 to 10,000 for mines of alluvium and shall be oriented from North to South astronomically. Further there should be noted on the plan: The name of the mine; the class of the mineral; the places where explorations have been carried on; the name of the municipality, district, State, or Territory in which it is located; the distance and bearing of the size of the square or rectangle which mark the mine; the location of at least one of the corner stakes tied to some notable fixed spot in the vicinity, noting the distance and bearing; the parts which are in common with abutting mines and in case there are none, there should be noted the distance and bearing from one of the corners of the

mine asked for to the corner of the nearest mine, it being understood that the nearest mine shall be located within a radius not exceeding five kilometers; the boundaries and all other data which may make clear and the circumstances which may affect the rights of the Nation or third parties or which may assist the Mine Guards in the act of possession mentioned in Article 183 of this Law or which may assist the Technical Inspector of Mines in preparing the general plan mentioned in paragraph 1 of Article 103 of this law. There should be left in the plan sufficient space in which to place the certification mentioned in Article 181, and for the note of approval of the Mine Guard.

Art. 181. Within six months counting from the end of the period referred to in the preceding Article, the Engineer or Surveyor named shall personally present to the Mine Guard the plan with the "Act of measurement," and note such presentation shall be made signed by the Mine Guard and whoever presents the plan.

The plan and the "Act of measurement" shall be made part of the record in the case.

Art. 182. The Mine Guard shall designate one of the 15 days following the presentation of the plan to give material possession and shall notify the interested party, the owner of the land if it is private property and the abutting owners.

Art. 183. The material possession shall be recorded by the making of a document which shall be signed by the Mine Guard, the interested party, the abutting owners and the owners of the land who may be present. This document shall be added to the record which at the interested parties' expense shall be sent to the Minister of Fomento.

Art. 184. Once the record has arrived at the Ministry of Fomento it shall be referred to the Technical Inspector of Mines for his report which he should render within 20 days after its receipt. The Minister of Fomento can extend this period for justifiable causes.

Art. 185. If the Technical Inspector finds errors in the records which can not be corrected in his office and the Minister of Fomento agrees with the opinion of the Inspector the record shall be returned to the Mine Guard who shall have the errors corrected within a fixed time.

Art. 186. Once the Record has been approved by the Minister of Fomento proceedings shall be taken to issue the title of the concession and it shall be submitted in their next session to the Congress, without the approval of which the title shall have no validity whatever. It shall be made on stamped paper of first class and signed by the President of the Republic and countersigned by the Minister of Fomento.

Art. 187. Once the title has been approved by Congress the Minister of Fomento shall order that there be made two copies of it and of the plan of the concession; one of the copies shall remain in the archives of the Ministry of Fomento and the other in the Technical Inspectorship of Mines. The title and original plan shall be delivered to the interested party; the respective Director shall put upon the plan a certificate to the effect that it is the same as was presented with the petition for the title.

The copies of the plans and the certificates shall be made by the Technical Inspector of Mines.

Art. 188. The interested party shall have registered the final title in the Registry Office in which the mine is located, within three months after the date of delivery of same, by the Minister of Fomento.

Art. 189. Once the Title is registered it shall be presented to the Mine Guard in order that he may transcribe it in the Book of Registry.

TITLE IV.

RENEWALS OF CONCESSIONS.

Art. 190. Every owner of a mining concession has a right to the renovation of his title.

Art. 191. In order to obtain the extension it is necessary :

1. To petition it of the Ministry of Fomento three months at least before the expiration of the time for which it was granted.

2. To have paid into the National Treasury the value of five annuities as the tax of extension.

3. The value of the annuity shall be the average of the imposts paid during the time of the concession.

Art. 192. The Minister of Fomento in view of the petition and the documents presented shall accord the renovation if they are in order.

TITLE V.

REQUIREMENTS FOR THE EXPLOITATION OF PITS.

Art. 193. Whoever has the intention of exploiting minerals by the method of Pits shall proceed to mark out his four angles with spikes or solid posts and he shall give notice to the Mine Guard indicating the place.

Art. 194. The Mine Guard upon receiving the notice to which the foregoing article refers, shall issue to the interested party a permit with the determination of the place indicated and the name of the person asking it with the proper number. This permit shall be issued without prejudice to the rights of third parties.

Art. 195. The Mine Guard as soon as it has issued the permit of exploitation shall officially within three days following its issue, go to the ground which is being exploited in order to check the demarcation and to determine in a clear manner if it not, to the end of avoiding every injury to the miners, to guarantee their works and establish order in the exploitation.

Art. 196. The interested party shall distinguish with a number of order located on the posts each pit, this number shall be that of the permit of exploitation and in accordance with its date shall be decided not only with respect to priority in possession but also abandonment by the one exploiting it.

Art. 197. Every discussion that may arise between those who engage in this sort of exploitations shall be decided briefly and summarily by the Mine Guard.

TITLE VI.

DECLARATION OF CADUCITY AND THE ACQUISITION OF EXPIRED MINES.

Art. 198. The caducity referred to in Paragraphs 1, 2, and 3 of Article 53 shall be declared by the Minister of Fomento.

Art. 199. The declaration of caducity referred to in Paragraph 1 of Article 54 is within the scope of the powers of the Minister of Fomento and that referred to in Paragraphs 2 and 3 of the same article 54 shall be decided by the Judge of the First Instance who has had in his jurisdiction the renouncement or the suit.

Art. 200. Against the decision of the Minister of Fomento the interested party can appeal to the Federal Court and Cassation within two months of the Publication of the Official Gazette by the means of a detailed petition which the Court will send a copy to the Minister of Fomento asking for the original record,

Upon receipt of the solicitude mentioned above the Court will fix for the study of the case the tenth day following and will then proceed to read the petition and give a decision within the legal period, listening to the arguments which may be made by the interested party or his lawyer, and the Attorney General of the Nation will comply with the instructions he may receive from the Minister of Fomento on the subject.

The court, if it is so requested by the interested party or his attorney in fact or by the Attorney General of the Nation after receiving the record and before the date fixed for its examination shall open if there be facts to be proved a proceeding for the taking of testimony for fifteen working days and the respective allowances of time on account of distances for the taking before the tribunals which to that end it may appoint the evidence that it is sought to present.

Art. 201. The concessions which have been declared lapsed by a final decision are free and can be newly issued to any petitioner, capable of acquiring mines who fulfills the following requirements:

1. To address a petition to the Minister of Fomento in which is precisely stated the name and location of the mine, its area and the date of resolution of caducity.

2. Present receipts to show that a payment of 1,000 bolivares has been made to the National Treasury.

3. To have a new plan of the mine made when in the judgment of the Ministry the previous one was not precise enough to show the exact location of the mine.

Art. 202. The record formed by the petition, copy of the resolution of caducity and the receipt for the payment of 1,000 bolivares shall be attached to the record of the lapsed concession and forwarded to the Technical Inspector of Mines for his report. Afterwards there shall be followed the procedure as required by Articles 186, 187, 188, and 189 of this Law.

Art. 203. When instead of petitioning for the concession of a mine which has been declared lapsed, a new concession is asked for which includes all or part of the land in which exists a lapsed mine, the proceedings, for a denouncement should be followed.

TITLE VII.

COLLECTION OF RENTS OF MINES.

Art. 204. The payments which have to be made by the owners of mines as referred to in Articles 83, 84, 85, 86 and 87 of this law shall be made as follows: The superficial tax in quarterly payments at the end of each quarter, and the exploitation tax once the exploitation has commenced in the form as will be later on specified by the Federal Executive and in one or another of the collection offices as will also be designated, within 5 days following the completion of a quarter or within 5 days after the liquidation in the form which will be established.

Art. 205. The superficial tax corresponding to a quarter which is not paid within the 5 days after the end of the quarter will be surcharged by 10 per cent. The liquidation in connection herewith shall be made by the Mine Guard when the payment is not effected in the National Treasury and they shall note under the heading "Intereses per demora" (Interests on account of arrears).

Art. 206. The procedure that should be taken is that outlined by the Code of Civil Procedure in the suits in which the National revenue have an interest,

Art. 207. When the impost has been left unpaid corresponding to various concessions in the same jurisdiction the demand shall be laid for the total amount owed; but what belongs to each concession must be specified.

Art. 208. In the auction of a concession proceedings shall be taken in accordance with the dispositions of the Civil Code, but only up to the second auction. In case there is no bid in the second auction by any private individual, the Judge shall declare the concession lapsed, in conformity with No. 3 of Article 54. The mining concessions in every case remain free; but the buildings, machinery and dependencies are property of the State until payment of what is owed to the Treasury and they shall pass to the former in their entirety if there be no claim within five years following the auction.

Art. 209. While judgment has not been pronounced or the concession has not been declared lapsed because no bid has been received the debtor may save the concession by satisfying the amount owed, the expenses of the suit and 5% more.

Art. 210. The price of the sale at auction shall be applied first to the payment of the amounts due the Treasury, the employees, and laborers, and to the costs of the suit. The rest if there be any shall be distributed according to law.

Art. 211. Once the adjudication of a mine has been made or it has been declared free pursuant to the tenor of Article 201, the other creditors shall conserve their personal rights of action against the debtor.

TITLE VIII.

REDUCTION OF SIZE OF THE CONCESSIONS.

Art. 212. In order to make use of the right referred to in Article 44 a formal petition should be made to the Minister of Fomento in which should be clearly stated the reduction to be made.

In the corresponding plan the changes shall be made and the copy of it sent to the Mine Guard who shall place the corner post advising the abutting owners of the new boundaries of the reduced concession.

In the original title and in the Registries there shall be stamped the original corresponding notes specifying the boundaries and the extension of the reduced concession.

Art. 213. The part which is given up can be granted as a new concession.

TITLE IX.

MANER OF RENOUNCING MINES.

Art. 214. Whoever having obtained a mining concession may wish to renounce it, shall address the Minister of Fomento in writing setting out; his name, surname, nationality, and domicile, the title of the concession, the name with which it is distinguished, its location and boundaries, the mineral which it was said to contain, the work which has been done, the incumbrances affecting it, and the utensils, tools, machinery and appurtenances.

Art. 215. The Civil Judge of the First Instance as soon as he shall receive the order from the Minister of Fomento shall grant the publication of the petition of renunciation by posters and by the press, and he shall cite all those who consider they have a right to contest it, admonishing them that if they do not do it within the unextendable term of ninety consecutive days, counted from the date of the publication of the poster, the concession will be declared free and the building appurtenances shall become the property of the State. The notices shall be published every ten days.

Art. 216. The ninety days having been without anybody having presented himself contesting the renunciation the Judge shall grant it, making the corresponding declarations, he shall order the cancellation in the Registry, he shall give notice of it to the Ministry of Fomento and the resolution shall be published in the press.

Art. 217. No opposition to a renunciation shall be entertained which does not first pay the sums owed to the Treasury. When various opponents appear there shall first be declared the quality of their credits, and the payment shall belong to the creditor, who enjoys preference among them over the rest. If they are in the same category then in prorato shares.

Art. 218. Once the Treasury has been satisfied as to its credit the Judge shall decree that the procedure shall continue, which shall be a meeting of the creditors if the opponents are many.

TITLE X.

RIGHTS OF WAY AND THE POLICING OF MINES.

Art. 219. The damages that one owner of a mine may suffer caused by another can be reclaimed in the Courts before regular Judges unless the two parties decide to submit the question to a Court of Arbitrators the decision of which shall be carried out in accordance with a common law.

Art. 220. The abutting owners of mines in exploitation have a right to visit personally or by an engineer or expert the neighboring mines whom he fears an encroachment upon his property or the imminence of a flow, or when from an inspection he believes he might obtain observation useful to his own respective exploitations. In this case the engineer or expert may measure the works next to the mines of the petitioner. If from the measurements made the fact of encroachment should be proved, the Mine Guard shall fix seals at the dividing points whilst the interested parties ventilate their rights in conformity with the preceding Article.

Art. 221. When the responsibility for the alleged damage caused in the matter of the controversy in so far as the cause is concerned or the act which gave rise to it are concerned the parties shall appear before the competent tribunals to ventilate their rights.

TITLE XI.

FEES IN CONNECTION WITH MINES.

Art. 222. The budget fixes the salary of each of the employees of mines, and when they are obliged to do some work for the interested party at a distance of more than a half a kilometer from the town in which they reside, the interested party in addition to the facilities for the trip and necessary food must pay such official 15 bolivares a day.

Art. 223. In connection with surveys the price shall be conventional between the interested parties and the engineers and surveyors.

In case of no agreement the surveyor can collect in accordance with the following schedules; for the measurements, marking and plans of the concession which does not exceed 10 hectares, Bs. 200.

If the concession exceeds 10 hectares, 2 bolivares for each hectarea in excess shall be paid.

Art. 224. The Arbitrators and Experts shall receive: (1) for each decision from 50 to 200 bolivares according to the importance of the work; (2) for each page of record that they study, 1 bolivar.

Art. 225. For each copy of plan of a mine which according to the disposition of law must be made in the Ministry of Fomento the interested party shall pay 100 bolivares which shall correspond to the Technical Inspector of Mines.

When a copy is made at the request of a party there shall be paid for it from 100 to 150 bolivares according to the nature of the work.

FINAL DISPOSITIONS.

Art. 226. All denouncements pending shall continue to be completed from the state in which they are found, in conformity with the provisions of this law.

Art. 227. The owners of mines which have been obtained under previous laws have the right to adapt their mines to the present law by advising the Minister of Fomento of such desire within 6 months of the promulgation of this law.

Art. 228. The director of mines of the Ministry of Fomento must be an engineer, preferably one whose specialty is mining.

Art. 229. There is hereby annulled the law of Mines of the 27th of June, 1918, and all the decrees and resolutions concerning the subject of mines.

Given, and signed in the Federal Palace, of Legislature, in Caracas; the 18th day of June, 1920, Year 111 of Independence and 62 of the Federation.

(Signed) D. A. CORONIL,
President. [L. S.]

(Signed) M. TORO CHIMIES,
Vice President.

(Signed) PABLO GODOY FONSECA,
R. CAYAMA MARTINEZ
Secretaries.

Federal Palace, in Caracas, 26th, June, 1920, year 111 of Independence and 62 of Federation.

(Signed) V. MARQUEZ BUSTILLOS.

Countersigned:

(Signed) G. TORRES,
Minister of Fomento.

EXPLOITATION OF HYDROCARBONS.

THE CONGRESS OF THE UNITED STATES OF VENEZUELA DECREES THE FOLLOWING LAW CONCERNING HYDROCARBONS AND OTHER COMBUSTIBLE MINERALS.

CHAPTER I.

FUNDAMENTAL DISPOSITIONS.

Art. 1. The present law governs the exploration and exploitation of deposits of hydrocarbons and coal (called soft coal, anthracite, lignite) and other similar combustible minerals.

Under the name of hydrocarbons shall be designated all subterranean deposits of petroleum, asphalt, bitumen, pitch, ozoquerite, fossil resin and gases given off by such formations.

Art. 2. The right to explore under ground for the substances to which this law only refers, is obtained through a permission given by the Federal Executive and the right to exploit same is only obtained by special exploitation contracts with the Federal Executive and approved by the National Congress. Moreover, the exploration right confers the right to close the respective exploitation contract or contracts in accordance with the conditions contained in Article

32 and in the other dispositions of this Law and the exploration permission can not be denied to him who in order to obtain it fulfills all the formalities prescribed by this Law for unreserved zones, barring such cases for which this Law makes an exception.

Art. 3. The exploitation right does not give the ownership of the mine in the sense of real property nor does it constitute a division of said ownership which is inalienable and imprescriptible. The contracting party may extract and sell the substances to which his contract refers only during the time stipulated and is bound to fulfill the obligations which he assumed, however without injury he may dispose in the way he likes of the mineral already extracted which existed as stock in hand at the time that his contract expires.

The exploration right only authorizes the party who obtains it to carry out the necessary investigations in order to prove the existence of the mineral.

Art. 4. The Law makes a distinction between exploration zones and reserved zones.

Reserved zones are:

1. The mines governed by this Law and obtained or contracted for prior to it, whether the titles, contracts, or concessions to same are still in force or whether they have been declared null and void counting from December 31st, 1920. Likewise the mines which will be contracted for under the present Law and those whose titles may be declared null will become reserved zones.

As to the zones which up to now have been given in exploration or on which from now on said exploration rights will be obtained, the reservation will only be in force during the duration of the respective contract for the sole benefit of the contracting party and only for such territory as is situated inside the Municipality or municipalities mentioned in the concession with the exception of which is contained in the following paragraph.

In any case this reservation shall exist with regard to the exploration of the substances indicated in the title, contract or concession that cover the reserved zone.

2. The lots which have been marked as national reservations in virtue of the contracts made under the Law of the 27th of June, 1918, and the Regularmentary Decrees concerning coal, petroleum and similar substances of the 9th of October, 1918, and 17th of March, 1920. Likewise the parcels of land which will be marked out in accordance with the dispositions of this present law shall become from now on reserved territory.

3. The mines which the Federal Executive holds in direct exploitation.

4. The salt deposits and the territory covered by the sea, the bottom of lakes and the bottom of navigable rivers.

5. The maritime islands which are subordinate to the Federal Executive may deem it advisable to declare not subject to contracts at the mouths and on the delta of the Orinoco, the Maracaibo Bar, and the regions near the borders of Colombia, Brazil and British Guiana.

6. Zones on which the Federal Executive declares the exploration of the subsoil of the wild and public lands to be subject to special contracts to which Article 45 refers. As to private property said reservation can only be exercised after the lapse of the year fixed in Article 8 and with respect to those owners who have not fulfilled the legal formalities, or at any time in the case foreseen in No. 3 of Article 17. The zones which have been covered shall be indicated with all precision through resolutions of the Minister of Fomento published in the Official Gazette.

7. The mines of substances covered by this Law which have been discovered and denounced under the Mining Law of the 29th of June, 1910, in order that

their denouncers may obtain the right to close an exploitation contract without having been able to procure same through the change in the legislation.

The reservation in this case embraces only exploration of the substances covered by the outstanding denunciation, it being permitted to make denunciations for other substances.

Art. 5. In the exploration zones no exploitation contract can be closed but with the legitimate explorer or his assignee. In the reserved zones it is not necessary for the party who closes an exploitation contract to be explorer. In both cases the rules which cover the closing of that special contract shall be followed.

Art. 6. In no case does the Nation guarantee the existence of the mineral covered by exploitation contracts, nor is it to be liable on account of such contracts or the exploration permit for good title nor for any indemnification for injuries in any respect towards the contractor or third parties whom the act may injure there remaining open to the latter their right to bring suit for nullity and other actions that lie in safeguard of their rights.

CHAPTER II.

RIGHT TO EXPLORE.

Art. 7. Nobody can request nor can the Federal Executive give an exploration permit but on a fixed tract the area of which does not exceed 10,000 hectares, which form one block not divided by creeks or navigable rivers. However, the permit for more than 10,000 hectares may be given if it is extended to the owner of a larger property.

In no case can the exploration tract be situated in zones reserved under Article IV.

Nor can more than six permits be given to one person.

Each permit shall be given under the rules established in the following Article.

Art. 8. He who wishes to obtain an exploration permit within a nonreserved zone shall state so through a document which he himself or his special attorney shall present to be recorded in the Subaltern Registry Office where the tract of land which is intended to be explored is located.

With respect to private property this declaration can during the first year following the publication of this Law in the Official Gazette only be made by the land owners or their assignees.

Once this time has lapsed every private individual Venezuelan or foreigner in the enjoyment of his civil rights and who does not fall under the exceptions mentioned in Articles 28 and 29, may make the aforesaid petition with respect to private property if the owners have not done so previously. If the latter have made their petition untimely, the fact that they are owners does not make better nor worse their situation.

With respect to wild or public lands in nonreserved zones, the petition may be made from the time that the present law is published in the Official Gazette although the petitioner may not occupy same.

Art. 9. In the petition to which the previous article refers shall be specified the family name and domicile of the petitioner, the location, name and boundaries of the tract for which the permit is asked, its approximate area and the class of mineral substances for which he wished to explore that is to say whether they are hydrocarbons or coal and similar combustible substances, or these two classes together.

Besides this, in case the petition is made by the owner of the property he will specify the origin or title of this ownership with a summary of the public

documents which prove his right and that of his predecessors in interest for at least over the previous ten years.

Also in case the petition is made with respect to wild and public lands or with respect to private property by a party who is not its owner or, being owner, acting after the time indicated in the previous article, there must be specified in this petition all the data which the petitioner has for consider the land, wild or municipal explaining, in the latter case, to which town or municipality it belongs or in case it is considered private property to whom it belongs.

In any case it has to be mentioned that the petitioner considers that the land for which an exploration permit is asked does not belong to the reserved zones as fixed by this Law.

Art. 10. In the same petition to which the two previous articles refer it shall be asked of the Registrador to certify in the note indicating the registration if with respect to this tract or part of same there has previously been filed in his Office a similar petition since the date of the publication of this Law in the Official Gazette.

The Registrador shall certify this subsequent to an examination of the protocols.

Art. 11. In case a piece of land belongs in common to various owners all of the coowners together, or at least those that represent the majority of ownership should make the petition referred to in the first paragraph of article 8 within the indicated time.

If during the first six months of the period such majority has not been made it, the petition may be formulated during the other six months by any of the co-owners, the better who may decide to make it being determined by priority in the registry.

Art. 12. Once the petition mentioned in the previous article has been registered, the petitioner shall publish it in a newspaper of the capital of the District and if there is none in a newspaper which is published in the Capital of the State. Such publication shall be made at least two times during the 20 days following the registration of the documents.

Art. 13. The interested party shall also have made a topographic plan of the tract of land for which the petition is made or of the part of said tract which represents 10,000 hectares, if the calculated area in it proves to be more, save in the case foreseen in the first part of Article 7.

Sole Paragraph. Although the tract for which permission is asked is reduced as explained, the total area of the tract must be marked on the plan. If the difference between the supposed area and the exact area is more than double the latter, the interested party shall lose all right to obtain an exploration permit. The plan must be signed by a graduated engineer or surveyor and the Mine Guard shall certify that the plan was made on the ground.

Art. 14. Inside of eight months following the registration of the petition drawn up in accordance with Article 8 the interested party shall appear before the Federal Executive through the Ministry of Fomento asking in writing that the exploration permit be granted to him.

To this end his petition must be accompanied by:

1. The aforesaid petition properly registered.
2. Several copies of the issues of the newspaper in which the declaratoria has been published as prescribed in Article 12.
3. A topographical plan made in accordance with the previous article.

If the postulant claims to be the owner of the land the petition shall be accompanied by the originals or certified copies of the documents which prove this and which have been mentioned in the registered petition.

The postulant who is not the owner of the land or who being the owner has not acted in time shall pay for the exploration permit 0.75 centimos for every hectare which the tract contains if the exploration covers all the mineral substances with which this Law deals, and likewise Bs. 0.50 per hectare if the permission is only asked for hydrocarbons and likewise Bs. 0.25 per hectare if the exploration has only for its object coal, (soft coal, anthracite coal, lignite) and other similar mineral combustibles.

Art. 15. He who claims to have a right to oppose the granting of exploration permits shall make his opposition in writing before the Ministry of Fomento within a period of six months which can not be extended and which shall be counted after the publications foreseen in Article 12, and any opposition presented after said period or which has been made as follows, shall not be considered:

1. By him who also pretends to be owner of the land which the postulant claims to be his, and maintains to have filled all the formalities necessary to obtain an exploration permit.

2. By those who oppose the petition made by parties who pretend to be the owners of the majority of the rights to a community property in accordance with Article 11, the opponents claiming that they form said majority and asking that the exploration permit be given to them in due legal course.

3. By him who without pretending to be the owner of the land or acting as such only makes opposition claiming his better right because he first fulfilled the legal formalities foreseen in the second part of Article 8 or by the joint owner whom prior registry favors in the case foreseen in the last part of Article 11.

4. By him who pretends that the tract over which an exploration permit is requested is a reserved zone because it embraces in total or in part a concession in force belonging to the opposer in accordance with No. 1 of Article 4, or denouncement of his own pending in accordance with No. 7 of this same article.

Art. 16. The oppositions, which in accordance with the previous Article, have been presented to the Ministry of Fomento shall be dealt with as follows:

In the cases to which Nos. 1 and 2 refer, the proceedings shall be ordered discontinued until the competent courts shall decide the controversy regarding the property.

In the cases to which Nos. 3 and 4 refer, the Ministry shall decide the matter within a view of the cited documents and shall then accord or refuse the exploration permit. Before rendering a decision and in order to be able to more intelligently decide the case, the Ministry may order that a new plan be made.

Art. 17. The Minister of Fomento may also *ex officio* order the proceedings to be discontinued:

1. If there are reasons to believe, which reasons must be expressed in the resolution, that the land which the postulant claims to be his is wild land during the time that this point is cleared up through the suit which shall be ordered brought by the competent superintendent of wild lands.

2. In case he has a like reason to consider that the denounced tract is within the reserved zones to which Nos. 2, 3, 4, 5 and 6 of Article 4 refer, and during the time that this point is cleared up through proceedings he may order taken.

In the cases to which the two preceding numbers refer, the permit shall be denied if the reasons for discontinuing have been substantiated. The permit may also be denied if there are irregularities in the proceedings or if the case foreseen in the sole paragraph of Article 13 has been verified.

3. In case the Federal Executive considers it expedient to declare the tract petitioned is a reserved zone or to incorporate it in a zone already reserved for the effects of No. 6 of Article refusing as a consequence the exploration permit.

Art. 18. The injured party may appeal inside of 10 days following the publication in the Official Gazette before the Federal Court of Cassation to whom in such case the original expedient shall be sent, against the decision of the Minister of Fomento refusing the exploration permit ordering the suspension of the proceedings, or when granting said permission he declares an opposition as invalid.

There shall be no appeal against a denial of the exploration permit which has been made in accordance with No. 3 of the previous article but the tract asked for can not be given in contract to third parties nor in total, or in part within 10 years following the said denial.

Art. 19. In case no legally drawn up opposition has been presented or if this has been rejected or if the cases foreseen in Article 17, have not presented themselves, or if the Federal Court of Cassation revokes the denial of the permit or the suspension of the proceedings which the Minister of Fomento have declared, the latter while approving said proceedings shall order in representation of the Federal Executive that the exploration permit asked for shall be granted to the interested party provided he deposits in the National Treasury the sum to which Article 14 refers in its latter part.

Just as soon as the interested party proves that he has made said deposit the resolution of the Minister of Fomento by which the permit is granted shall be dictated and published.

Sole Paragraph. If the petition originates from the owner of the land, exempt to pay for exploration permit in accordance in the same resolution in which the proceedings have been approved.

Art. 20. The section of Mines shall extend to the interested party a certified copy of the resolution in which the permit has been granted. This document shall serve the interested party as proof of his right and he shall have it recorded in the corresponding Registry Office.

Art. 21. The exploration permit gives to him who holds it an exclusive right to make explorations in the corresponding tract, during the time of its duration and for such substances as covered by the permit and for his work in territory which is not his own property and which is occupied by other or belongs to others he must fulfill the requisites prescribed by the Articles 136 to 144 inclusive of the Mining Law. Said permission will last for two years which shall be granted from the time that the resolution mentioned in Article 19 is published in the Official Gazette and always within the legal periods.

The exploration permit is irrevocable during the time of its duration but is subject to the causes of nullity indicated in Articles 23, 24 and 25. Nor can he who has commenced to fulfill the formalities required by this Law be deprived of the right to pursue the proceedings until he has obtained the permit in accordance with this Law.

Art. 22. Once the duration of the exploration permit has expired it ceases in all its consequences without necessitating a special declaration, and for no reason can it be extended.

Art. 23. The exploration permit is null insofar as it invades mining concessions belonging to third parties with which it is incompatible as regards No. 1 of Article 4, in which case the interested party can ask nullity although they have not presented opposition.

The judicial proceedings in this case shall be between the parties before the competent courts and without intervention of the Nation; and in no case can the Nation in any respect be held responsible.

Art. 24. The exploration permit is also void if notwithstanding the legal prohibition, it has been granted over reserved zones in accordance with Nos. 2, 3, 4, 5, and 6 of Article 4, or in contravention with Article 7 or without

previous legal procedure or notwithstanding prohibition mentioned in the sole paragraph of Article 13.

In this case the action to have declared the nullity belongs to the Nation represented by the Attorney General, in accordance with instructions from the Federal Executive, and the case shall be brought before the Federal Court of Cassation.

Art. 25. The permit granted in violation of Articles 28 and 29 is absolutely null.

If the permit should be given in the name of intervening persons but in reality in favor of those who can not obtain same it shall be necessary to prove this simulation by means of judicial proceedings.

Art. 26. The nullity of the exploration permit carried with it the nullity of the exploitation contracts which may have been consequently closed in the corresponding suit for nullity of the permit said contracts shall be specified, the nullity of which may be demanded at the same time.

Art. 27. The exploration permit can be transferred and it is only necessary to notify the Minister of Fomento. The land owner may also specially transfer the right which is given to him by the first part of Article 8 for which only a public deed duly registered is necessary.

Art. 28. Save for lands which they own persons indicated in Article 29 of the Mining Law can not obtain exploration permits.

Art. 29. Nor can exploration permits be given to foreign Governments.

CHAPTER III.

EXPLOITATION CONTRACTS.

SECTION I.

CONTRACTS WITH EXPLORERS.

Art. 30. He who exercising his right of exploration has discovered substances which constitute the object of his permit and wants to make an exploitation contract shall ask this of the Minister of Fomento before the time his permit lapses and in accordance with the following Articles.

Art. 31. Every exploration tract shall be divided in plots of 200 hectares in case the substances which form the object of exploration be hydrocarbons, and of 500 hectares if they be of coal or similar combustible minerals. In case the exploitation embraces the one as well as the other substances the plots shall be of 200 hectares.

The division shall be made in quadrangles even if the original tract be irregular which would result in having irregular plots on the borders and of a smaller area than that indicated.

The explorer may ask for the closing of separate contract of plots the number of which is not in excess of one half of those contained in the original tract. The others will remain National Reserve and the latter can not have other contact with the first than the corners of the quadrangle.

Art. 32. The basis of the exploitation contract for each plot shall be:

1. The duration of the contract or permit shall be 30 years following the publication in the Official Gazette of the Law approving it.

2. The obligation on the part of the contracting party to pay to National Treasury once only and inside of one month after publication in the Official Gazette of the Law by which the contract is approved Bs. 2,000.00 if the contract is made not only for the exploitation of hydrocarbons but also coal and

other similar combustible substances; and Bs. 1,000.00 if the contract is only for one of these classes.

3. The obligation of the contracting party to pay yearly in the National Treasury Bs. 1,400.00 as a surface tax or exploitation if the contract is for the two classes of mineral substances; Bs. 1,000.00 if it is only for hydrocarbons, and Bs. 400.00 if it is for coal and other similar combustible substances only.

4. Obligation on the part of the contracting party to pay in the National Treasury a sum equivalent to 15% of the commercial value of the mineral as exploitation tax, optional to the Federal Executive, to deliver in kind 50% of the extracted minerals.

Sole Paragraph: The Federal Executive is authorized to reduce the exploitation tax in cash or in kind, taking into account the distance of the place where the exploitation is to be established from the closest shipping point in the event that no other mines of the same substance is yet in exploitation at least within 10 kilometers of said place; and the special difficulties of transport which the business has to face, but in no case shall the exploitation tax be less than 10% of the commercial value of the mineral in cash or than 10% in kind of the gross extracted mineral and in case the Federal Executive adopts the first form of payment the tax shall never be less than Bs. 2.00 for each ton of petroleum, if this is the substance which is exploited.

5. Obligation on the part of the contracting party to pay for the refined products which it makes and which are consumed in the Republic 50% of the import duties which would have to be paid to the Treasury in case the products were imported.

Sole Paragraph: The Federal Executive may abolish the effects of this clause when he thinks this to be proper.

6. Enjoyment on the part of the contracting party of all the rights which this Law gives him, his submission to the obligations it imposes on him, his express submission to all the legal reasons for caducity or nullity of the contract, and his recognizing that under no circumstances shall the Nation be under obligation of curing title.

7. The stipulation of Article 121 of the National Constitution.

8. Obligation on the part of the contracting party to leave for the benefit of the Nation the piping machinery and installations fastened to the ground which had been erected for exploitation purposes on the plot contracted for and which exist there at the end of the contract, also the oleoducts with the exception of refinery apparatus which shall remain the property of the contracting party who may take away those that were inside the limits of the plot.

Art. 33. The explorer, when asking for the exploitation contract must accompany his petition by:

1. The exploration permit.

2. A composite plan of the tract covered by the permit, divided into quadrangles in accordance with Article 31, to the scale of 1:20,000 on which shall be marked the plots for which he wants to make a contract and those which will remain National Reserve.

3. Separate plans of the plots for which he wishes to make a contract, every one to the scale of 1:5,000.

Sole Paragraph: The plan to which this number and the previous one refer must be real topographic plans made and signed by graduated engineers or surveyors oriented according to astronomic North and South, drawn on paper or cloth of a good quality, and indicating the following: the name of the exploration tract; the name of every plot for which a contract is asked; name of the municipality, District and State or territory in which it is located, area and

boundaries, length and direction of the sides of the square or rectangle of each plot on their special plans; location of one of its corners relative to a fixed proximate point on the ground, bearing and distances; and in the composite plan the location of the whole plot with respect to the closed mines if there are any within a radius of 4 kilometers, and the names of the land-owners. The composite plan as well as the plans of the separate plots may be measured in accordance with Article 13 and by the same engineer or surveyor who makes the measurement foreseen therein during the time the permit is in force by him or by another graduated engineer or surveyor.

Art. 34. The plans presented shall be studied by the Technical Inspector of Mines who after having found them in order shall put on them his approval. In case he does not find them in order he shall report to the Ministry of Fomento for the corresponding action.

If the Minister finds that the observations of the Technical Inspector are justifiable he shall order the errors to be corrected within the time that he thinks sufficient.

Art. 35. If the observations of the Technical Inspector of Mines are based on data which exists in his Office and which shows that the area of the tract mentioned exceeds that given in the plans in proportions equal or more as indicated in the sole paragraph of Art. 13, and in any other case in which the Minister of Fomento sees fit in order to make sure of the proper distribution of the plots indicated to become National Reserve he may order the survey of a new plan by an engineer or surveyor nominated by him and at the expense of the interested party.

If the observations of the Technical Inspector of Mines prove to be correct or if the distribution of the plots prove to have been made by fraud to the detriment of the Nation, the Minister of Fomento shall deny the granting of the exploration contracts. The same way shall be proceeded if the exploration permit is declared null or if the petition to close contracts is untimely.

In all these cases the Ministerial resolutions shall be published as soon as possible in the *Gaceta Oficial*.

The interested party who does not consider it lawfully adjudicated has recourse to appeal against the decision of the Minister of Fomento to the Court Federal and of Cassation within ten days following the aforesaid publication.

Art. 36. Once the proceedings and the plans have been approved the Minister of Fomento shall order in the same resolution in which this had been done, the despatch of the different exploitation contracts of the plots, which shall be executed and signed as soon as possible specifying the name, surname, and domicile of the contracting party; name, area, and boundaries of the plot; date of the corresponding exploration permit; the basis of the contract specified in Article 32; the stipulation of which shall be subject to the approval of the National Congress; and the number of the contract and the page of the registry book in which it is noted.

Art. 37. Once the contract is signed it shall be published in the Official Gazette and shall be submitted to the approval of the National Congress transmitting it to one of the chambers with the corresponding record.

Art. 38. In case Congress does not find any legal objections to the proceedings taken and consequently approves the contract, it shall return it to the Ministry of Fomento with the record.

Sole paragraph: Several exploitation contracts governing plots which correspond to one exploration contract may be approved by the same law.

Art. 39. Just as soon as the Ministry of Fomento receives the record from the Congress and the Law which approves it has been published in the Official Gazette, there shall be extended, upon petition by the interested party a cer-

tified copy of the contract mentioning the date of the Law by which it has been approved by the National Congress, and the number of the Official Gazette in which said Law has been published.

The interested party shall have the copy recorded in the Subaltern Registry Office of the District in which the plot is located.

Art. 40. There shall also be handed to the contracting party at his expense a copy of the plan certified by the Technical Inspector of Mines.

SECTION II.

EXPLOITATION CONTRACTS IN THE RESERVED ZONES.

Art. 41. The National plots to which No. 2 of Article 4 refers and which the National Executive decides not to exploit directly can only be given in contract through bids made before the Minister of Fomento or before a judge commissioned by him. The contract shall be closed with highest bidder, that is, to him who offers the most besides the minimum basis which the Federal Executive judges proper to establish for each case, and which never can be less advantageous for the Nation than those indicated in Article 32, neither with respect to the obligations of the contracting party nor with respect to the duration of the term. With respect to the exploitation tax the basis of the bidding may be up to 25% of the commercial value of the mineral of (or) 25% in kind of the gross extracted mineral.

The Federal Executive will regulate the proceedings to be followed in the biddings.

Art. 42. The same proceedings indicated in the previous Article shall be to contract for mines of substances covered by this Law which have been granted or contracted for in accordance with the previous Laws and whose titles or concessions have been annulled, dissolved or declared lapsed after the 31st of December 1900, and which do not form part of the zones to which Nos. 3, 4, 5 and 6 of Article 4 refers.

In this case the basis will be those indicated in Article 32, with respect to the exploitation tax.

Art. 43. The deposits located in the zones to which No. 4 of Article 4 refers may be contracted for without submitting to the division into lots and without previous bidding but figuring the total area of the respective zones the basis of the contract can in no respect be less advantageous for the Nation than those indicated in Article 32; the exploitation tax of 25% of the commercial value or of 25% in kind of the gross extracted mineral may be stipulated. The same principle shall be observed if the mines which the Executive has or had in direct administration are contracted for.

No contract can be made for the exploitation of mineral deposits located in the zones indicated in No. 5 of Article 4 and these shall be exploited by direct administration of the Federal Executive.

Art. 44. Each year no larger number of plots than the fifth part of those which were disposable and have been measured at the end of the previous year can be put up for bidding.

The Ministry of Fomento shall carefully keep the corresponding statistics.

Art. 45. In the reserved zones which have been declared as such in accordance with No. 6 of Article 4 the Federal Executive may close such contracts without the necessity of previous contract as he deems advantageous for the exploration and exploitation, but always on the basis indicated in Articles 31 and 32 with the exception that the term fixed in No. 1 may be extended, and also excepting what is stipulated in the final part of Article 18. The Federal Executive may

also direct that after the mines which he wishes to exploit direct are separated plots shall be marked out of 200 hectares in case of hydrocarbons, 500 hectares in case of coal and 200 hectares in case of both substances. Said plots shall be contracted for with the highest bidder in accordance with the rules of Article 41.

Art. 46. The denouncers who are in the case foreseen in No. 7 of Article 4 may inside of 8 months after publication of this Law in the Official Gazette ask for the closing of the respective contract. The denounced mines shall be reduced to plots of which the dimensions are as indicated in the last part of the previous article and the interested party shall submit the corresponding plan which shall be made up in accordance with the sole paragraph of No. 3 of Article 25.

The Minister of Fomento shall close the contract if the legal formalities have been fulfilled and provided always that the mine has not already been contracted for by third parties, or does not form part of a zone which has been declared reserved, in accordance with No. 6 of the same Article 4.

Art. 47. Once the contracts to which the three previous Articles refer have been signed, the proceedings embodied in Articles 37, 38, 39, and 40 shall be followed.

Art. 48. The contracts to which this and the previous section refer shall be governed by the same prohibition which has been formulated with respect to the exploration permits in Articles 28 and 29.

SECTION III.

RIGHTS AND OBLIGATIONS OF THE CONTRACTORS.

Art. 49. The exploitation contracts may be transferred by the contracting party to any competent person, or National or foreign Company duly constituted, after consent of the National Government, with the exception that one person or Company may not obtain by transfer more than 100,000 hectares of exploitable coal lands, nor more than 40,000 of land containing oil or similar substances, and that no transfer(s) can be made to foreign Governments nor to straw men or to their agents.

Art. 50. Every plot contracted for must be put in exploitation within three years following the publications in the Official Gazette of the law by which the contract is approved.

The mines of the substances covered by this law shall not be considered to be in exploitation unless minerals are extracted from the mineral deposit or unless everything necessary is being done to arrive at the extraction through erection of machinery and other arrangements appropriate to the kind of mine.

Art. 51. The exploitation of the substances contracted for may not be stopped without a justifiable motive.

Every time that an enterprise is obliged to stop work it shall notify the Minister of Fomento explaining and proving the cause.

Art. 52. The substances covered by this Law, needed by the Federal Executive for public services shall be furnished by the exploiting enterprises with a deduction of 20% of the price of the Article on the day of sale. In calculating the amount that has to be furnished by the different enterprises the productive capacity shall be taken into account.

Art. 53. The surface tax shall be paid from and including the quarter in which the Law approving the contract was published in the Official Gazette paying for the whole quarter regardless of the day of the publication and afterwards paying at the end of every three months.

Art. 54. The exploitation tax to which No. 4 of Article 36 refers is due from the time of the extraction of the mineral. The Federal Executive shall regulate its liquidation and collection and what concerns the delivery by the contractor of the respective proportion of the mineral extracted in case the Federal Executive should elect that this should be the case.

Art. 55. The contracting parties although subject to the taxes of stamped paper, stamps, and other things of a general character established by law are exempt from any others which refer specially to the exploitation of mines and which make the obligations assumed by them more burdensome.

Art. 56. Every contracting party shall enjoy the following privileges:

(a) The advantages of the expropriation Law in the conditions established by Article 18 of the Mining Law.

(b) The right to the constitution of servitudes in accordance with title 9, Book one of the Mining Law. In case the mine is located in wild lands or if for the construction of roads, pipe lines or similar constructions, it shall be necessary to occupy wild lands, the servitude shall be given free of charge.

(c) The right established by Article 94 of the Mining Law regarding ways of communication besides the usual ones there shall be considered as ways of transport in the exploitation of petroleum the pipe lines necessary to bring fluids from the exploitation centers to the refinery or shipping terminals and the aqueducts necessary for the service of the Companies.

(d) The importation free of duty of the machinery, buildings, tubes, deposits, floating craft, and knocked down containers, implements, instruments, tools and other things used for exploration and exploitation, refining and extraction of derived products.

In each case the requisite established by the Law of Hacienda will have to be filled.

(e) All the facilities compatible with the Custom Laws in order to expedite the traffic of the floating craft of the enterprises.

Art. 57. Every exploitation of the deposit to which this Law refers, remains subject to the dispositions of Articles 113 to 129 inclusive, of the Mining Law and to the rules which the Federal Executive issues regarding the mining police in order to avoid the ruining of the wells, protection to the workmen, construction of pipe lines, installation of refineries in order to avoid conflagrations.

Art. 58. The Federal Executive shall study through technical commissions the problems relating to the exploitation, transportation and utilization of petroleum and shall have the right to act as a fiscalize the exploitation in order to prove whether the rules of this law and of the regulations issued in accordance with thee previous Article are being complied with.

Art. 59. The contracting party shall in case of hydrocarbons leave a neutral strip of at least 50 meters wide along the sides of his plot in which no wells shall be sunk.

Art. 60. The shooting of a well in order to increase the production or in order to make a well produce shall not be done without permission from the Federal Executive after a Technical Report about the necessity has been made.

Art. 61. Each contractor once exploitation is commenced, shall send to the Ministry of Fomento a quarterly report concerning the workings performed stating the density of the liquid when there is question of petroleum the amount of the exploitation and the total destined for the refinery storage.

Art. 62. Every exploiter is under obligation of sending to the Ministry of Fomento the data that this latter may request for the study of the Carboniferous deposits and those of hydrocarbons of Venezuela and of filling in the forms that may be sent to him for the statistics of the industry.

Art. 63. The contracting parties shall state in their Reports the data about the strata drilled through as a contribution to the geological map of the mining zones.

SECTION IV.

NULLITY AND CADUCITY OF CONTRACTS.

Art. 64. The exploitation is null:

1. When it is made on the strength of an exploration permit which is null.
2. In any case that it falls on a mine belonging to third parties with whose title or concession it is compatible.
3. Because it has been closed with persons to whom it is legally forbidden according to Article 48.
4. Because the clauses stipulated are less advantageous to the Nation than is indicated in this Law in accordance with the dispositions applicable to the case.
5. For all other reasons of nullity of contracts in accordance with the common law insofar as they are applicable.
6. When the contract is made in breach of the regulations in the final part of Article 18.

Art. 65. The rights of the contracting party lapse:

1. Because they have been obtained directly or by dissimulation by foreign Governments.
2. Because not having made in time the payment of the sum referred to in No. 2 of Article 32.
3. Because the mine has not been put into exploitation within the term fixed in Article 50 or because the exploitation has been stopped without a justifiable motive for more than one year.
4. For not having paid the surface tax for more than one year.
5. For not having paid after the liquidation of the exploitation tax referred to in paragraph 4 of Article 32 within the time indicated in the respective regulations, or for not having delivered the corresponding share of the gross extracted mineral in kind if the Federal Executive chooses this course within the time fixed by the regulations.
6. For having renounced the contract.
7. The contracting party having made use of the diplomatic channels to complain or make reclamations against the Government of the Republic for any action with respect to the execution of the contract.

Art. 66. The nullity to which No. 1 of Article 64 refers shall be declared after litigation which may be the same as relates to the nullity of the exploration permit except this latter is null as a matter of absolute right.

The nullity to which No. 2 refers shall be declared in conformity with the proceedings indicated in Article 23.

The nullity to which No. 3 refers is of absolute right except the contract shall have been dissembled under the name of a person interposed in which case the legal proof will be necessary.

The nullity indicated in No. 5 is considered as of absolute right or relative in accordance with the judicial rules applicable to the specific case.

The action to demand nullity in accordance with No. 6 of Article 64 appertains to whom had been denied the exploration permit on a tract contracted for illegally afterwards. In case the claimant be the owner of the ground he shall have a right to obtain the exploration permit which previously had been refused to him, once the nullity has been declared.

Art. 67. The caducity to which No. 1 of Article 65 refers is of absolute right but if acquisition has been made through straw men this will have to be proven before the courts.

The caducities to which Nos. 2, 3, 4, 5, and 7 of the same Article 65 refers shall be declared by the Federal Court of Cassation in a contentious litigation.

Art. 68. The renouncement made by the contracting party shall be conducted in accordance with the rules of title 8, Book 1 of the Mining law.

Art. 69. The right(s) of the contracting party terminate *de facto* and *de jure* through the lapse of the term stipulated without necessity of any declaration.

CHAPTER IV.

VARIOUS DISPOSITIONS.

Art. 70. In the direction of Mines of the Minister of Fomento shall be kept a numbered registry in which shall be integrally inscribed all the exploitation contracts which have been closed.

Art. 71. The Minister of Fomento shall order that in the archives of the respective section the following documents shall be kept on record:

1. Map of each of the States of the Republic in which there have been celebrated contracts for the exploration and exploitation in which shall be indicated:

(a) All the concessions of the substances to which this Law refers which have been closed up to now.

(b) The exploration permits which have been granted and the exploitation contracts which have been closed in the future.

(3) An atlas of each zone composed of a general plan of same and of the plots which correspond to them.

Art. 72. In the Annual Report of the Minister of Fomento there shall be published the condition of the exploitation of all mines of coal, petroleum, and similar substances covered by this Law granted in Venezuela with the data necessary to show the returns of each region and in respect to the hydrocarbons the essential characteristics of the product, the amount of product extracted, the amount of derived products, consumption in the country and taxes produced.

Art. 73. The dispositions of this law concerning exploration permits the bases for the exploitation contracts, obligations and rights of the contracting parties and causes of caducity and nullity of the same shall only be applied to acts done under its domain.

The exploration and exploitation contracts and the titles granted in conformity with previous laws and regulations shall be governed by the Law or regulation under which they are closed or granted.

Art. 74. The contracting parties or concessionaires of Mines of substances to which this Law refers, the contracts or titles to which have been celebrated or issued under previous Laws may adapt them to the present Law for the time their title of contract may still last but this time can never be extended by adoption if the concession be longer than stipulated in this Law.

If the concession should be greater in extent than that assigned by this law to plots, it shall be considered as divided in two or more, the lesser fraction obtained by such division always being counted as a parcel.

Art. 75. The adoption to which the previous Article refers shall be declared by resolution from the Ministry of Fomento which shall be published in the Official Gazette after petition of the interested part and the presentation of the respective plan with the title or contract which it is sought to adapt to this Law.

Art. 76. The Federal Executive shall dictate the regulations to which the Articles 41, 54, and 75 refer and others which may be necessary for the proper execution of this Law.

Given in the Federal Legislative Palace, in Caracas the 19th day of June, 1920, the 111th year of Independence and of the Federation, the 62nd.

The President.

[L. s.]

(Signed)

D. A. CORONIL.

The Vice President.

(Signed)

M. TORO CHIMIES.

The Secretaries.

(Signed)

PABLO GODOY FONSECA.

R. CAYAMA MARTINEZ.

Federal Palace in Caracas, 30th June, 1920, 111th year of Independence and 62d of Federation.

Let it be executed and care taken as to its execution.

(Signed)

V. MARQUEZ BUSTILLOS.

(Signed)

G. TORRES.

Minister of Fomento.

PUBLICATIONS RELATING TO MINING LAWS.

A limited supply of the following publications of the Bureau of Mines has been printed and is available for free distribution until the edition is exhausted. Requests for all publications can not be granted, and to insure equitable distribution applicants are requested to limit their selection to publications that may be of especial interest to them. Requests for publications should be addressed to the Director, Bureau of Mines.

The Bureau of Mines issues a list showing all its publications available for free distribution as well as those obtainable only from the Superintendent of Documents, Government Printing Office, on payment of the price of printing. Interested persons should apply to the Director, Bureau of Mines, for a copy of the latest list.

PUBLICATIONS AVAILABLE FOR FREE DISTRIBUTION.

BULLETIN 75. Rules and regulations for metal mines, by W. R. Ingalls and others. 1915. 296 pp., 1 fig.

BULLETIN 90. Abstracts of current decisions on mines and mining, December, 1913, to September, 1914, by J. W. Thompson. 1915. 176 pp.

BULLETIN 101. Abstracts of current decisions on mines and mining, October, 1914, to April, 1915, by J. W. Thompson. 1915. 138 pp.

BULLETIN 113. Abstracts of current decisions on mines and mining, May to September, 1915, by J. W. Thompson. 1916. 124 pp.

BULLETIN 118. Abstracts of current decisions on mines and mining, October to December, 1915, by J. W. Thompson. 1916. 74 pp.

BULLETIN 126. Abstracts of current decisions on mines and mining, January to April, 1916, by J. W. Thompson. 1916. 90 pp.

BULLETIN 172. Abstracts of current decisions on mines and mining, January to April, 1918, by J. W. Thompson. 1918. 160 pp.

BULLETIN 174. Abstracts of current decisions on mines and mining, May to September, 1918, by J. W. Thompson. 1919. 138 pp.

BULLETIN 179. Abstracts of current decisions on mines and mining, September to December, 1918, by J. W. Thompson. 1919. 166 pp.

BULLETIN 181. Abstracts of current decisions on mines and mining, January to May, 1919, by J. W. Thompson. 1919. 176 pp.

BULLETIN 185. Pennsylvania mining statutes annotated, by J. W. Thompson. 1919. 997 pp.

TECHNICAL PAPER 138. Suggested safety rules for installing and using electrical equipment in bituminous coal mines, by H. H. Clark and C. M. Means. 1916. 36 pp.

PUBLICATIONS THAT MAY BE OBTAINED ONLY THROUGH THE SUPERINTENDENT OF DOCUMENTS.

BULLETIN 61. Abstracts of current decisions on mines and mining, October, 1912, to March, 1913, by J. W. Thompson. 1913. 82 pp. 10 cents.

BULLETIN 65. Oil and gas wells through workable coal beds; papers and discussions, by G. S. Rice, O. P. Hood, and others. 1913. 101 pp., 1 pl., 11 figs. 10 cents.

BULLETIN 79. Abstracts of current decisions on mines and mining, March to December, 1913, by J. W. Thompson. 1914. 140 pp. 20 cents.

BULLETIN 94.* United States mining statutes annotated, by J. W. Thompson. 1915. 1772 pp. In two parts, not sold separately. Cloth, \$2.50 per set; paper, \$2.

BULLETIN 143. Abstracts of current decisions on mines and mining, reported from May to August, 1916, by J. W. Thompson. 1916. 722 pp. 10 cents.

BULLETIN 147. Abstracts of current decisions on mines and mining, reported from September to December, 1916, by J. W. Thompson. 1917. 84 pp. 10 cents.

BULLETIN 152. Abstracts of current decisions on mines and mining, January to April, 1917, by J. W. Thompson. 1917. 78 pp. 10 cents.

BULLETIN 159. Abstracts of current decisions on mines and mining, May to August, 1917, by J. W. Thompson. 1917. 111 p. 15 cents.

BULLETIN 161. California mining statutes, annotated, by J. W. Thompson. 1918. 312 pp. 20 cents.

BULLETIN 164. Abstracts of current decisions on mines and mining, September to December, 1917, by J. W. Thompson. 1918. 147 pp. 20 cents.

BULLETIN 169. Illinois mining statutes, annotated, by J. W. Thompson. 1918. 594 pp. 35 cents.

TECHNICAL PAPER 53. Proposed regulations for the drilling of oil and gas, with comments thereon, by O. P. Hood and A. G. Heggem. 1913. 28 pp., 2 figs. 5 cents.

* Bulletin 94 contains the United States mining statutes and those sections of the Revised Statutes that relate to mining. The annotations, abstracted from the decisions of the various courts and of executive officers of the Government that have interpreted the sections and statutes codified, show the present status of each section or act.

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